

**FIRST AMENDMENT
TO
RESTATED AND AMENDED AGREEMENT
[Integrated Solid Waste Management and Street Sweeping Services]**

THIS FIRST AMENDMENT TO RESTATED AND AMENDED AGREEMENT (the “First Amendment to Agreement”) is made and entered into as of _____, 2026 (“Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and CR&R INCORPORATED, a California corporation (“Contractor”), with reference to the following.

A. City and Contractor entered into an Agreement (Agreement No. 5444.B) dated as of January 9, 2024, which is incorporated herein by this reference (the “Original Agreement”); and

B. City and Contractor desire to amend the Original Agreement to modify, amend and supplement certain portions of the Original Agreement by establishing a franchise fee associated with Contractor’s use of City property and the public right-of-way in connection with the provision of solid waste-related services; and

C. City is authorized pursuant to the California Constitution, applicable provisions of state law, and the Orange Municipal Code to grant franchises and charge reasonable compensation for the use of City property and the public right-of-way.

NOW, THEREFORE, the parties hereby agree as follows:

Section 1. **Defined Terms.** Except as otherwise defined herein, all capitalized terms used herein shall have the meanings set forth for such terms in the Original Agreement.

Section 2. **Cross-References.** City and Contractor agree that all references in this First Amendment are deemed and construed to refer to the Original Agreement, as implemented by this First Amendment.

Section 3. **Revised Compensation and Franchise Fee Requirements.** The Agreement is hereby amended as follows:

“The Annual Road Mitigation Reimbursement provided for in Section 3.1.2 shall be suspended as of June 30, 2026.

Effective July 1, 2026, the City and Contractor agree that Contractor shall pay City a Franchise Fee as consideration for Contractor’s use and occupancy of City property and the public right-of-way, including the exclusive and special franchise rights granted under the Agreement in connection with the provision of solid waste-related services. The parties acknowledge and agree that the Franchise Fee is intended to reflect the reasonable market value of such rights, including Contractor’s use and occupancy of the public right-of-way and other City property

in connection with the provision of services under the Agreement. The Franchise Fee is intended as consideration for the property and franchise rights granted under the Agreement and is not intended to recover the City's regulatory costs. The parties acknowledge that the Franchise Fee constitutes negotiated consideration for the franchise, access, occupancy, and use rights granted to Contractor under the Agreement.

Pursuant to this Agreement and the Orange Municipal Code, Contractor has been granted an exclusive and special right and license to use and encroach upon the public right-of-way for the purpose of placing collection containers and providing collection services.

The Franchise Fee shall not exceed the reasonable market value of the rights granted to Contractor under the Agreement, as further described in Exhibit "A." The Franchise Fee shall be initially set in the annual amount of \$2,131,182.31 and shall be subject to annual adjustment based on the Consumer Price Index ("CPI"); unless otherwise modified by the City Council based upon an updated valuation analysis.

The City Council may, by ordinance or resolution, modify the Franchise Fee from time to time, provided that any such fee shall not exceed the reasonable market value of the rights granted to Contractor under the Agreement.

The Franchise Fee shall be paid to the City in accordance with the procedures, terms, and conditions set forth in Section 3.1.6 of the Agreement.

If established, Franchise Fees shall be considered a fully-recoverable, pass-through cost of business not subject to profit or mark-up and shall be included in the adjustment of Rates as described in Section 7."

Section 4. **Integration.** This First Amendment amends, as set forth herein, the Original Agreement and, except as specifically amended hereby, the Original Agreement shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this First Amendment and the terms and provisions of the Original Agreement, the terms and provisions of this First Amendment shall control and govern the rights and obligations of the parties.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS of this First Amendment to Agreement, the parties enter into this First Amendment on the year and day first above written.

“CONTRACTOR”

“CITY”

CR&R INCORPORATED, a California corporation

CITY OF ORANGE, a municipal corporation

*By: [Signature]
Printed Name: CUFF ROUNGBORE
Title: CEO

By: _____
Daniel R. Slater, Mayor

*By: [Signature]
Printed Name: DAVID ROUNGBORE
Title: COO & President

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Nathalie Adourian, City Attorney

***NOTE:**
-- *If CONTRACTOR is a corporation, the City requires the following signature(s): (1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR*
-- *The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to the City.*

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IN WITNESS of this First Amendment to Agreement, the parties enter into this First Amendment on the year and day first above written.

“CONTRACTOR”

“CITY”

CR&R INCORPORATED, a California corporation

CITY OF ORANGE, a municipal corporation

*By: _____
Printed Name: _____
Title: _____

By: _____
Daniel R. Slater, Mayor

*By: _____
Printed Name: _____
Title: _____

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Nathalie Adourian, City Attorney

***NOTE:** *If CONTRACTOR is a corporation, the City requires the following signature(s):*
-- *(1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR*
-- *The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to the City.*

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EXHIBIT “A”

HF&H CONSULTANTS, LLC MEMORANDUM – FRANCHISE FEE

[Behind this page.]



MEMORANDUM

To: Christopher Cash, Director of Public Works, City of Orange

From: Dave Hilton, Senior Project Manager, HF&H Consultants

CC: Rob Hilton, President, HF&H Consultants
Haley Kunert, Senior Project Manager, HF&H Consultants

Date: May 7, 2026

Re: Draft Franchise Fee Analysis for the City of Orange

This technical memorandum reports on the results of our analysis of the City of Orange's (City) value and costs associated with the City's solid waste franchise. HF&H Consultants, LLC (HF&H) understands that the City is interested in ensuring the value, along with the direct and indirect costs associated with its solid waste franchise, is analyzed and documented for the administrative record.

Background

The City requested HF&H to assist with an analysis of the value and costs associated with the City's solid waste franchise and other expenses incurred by the City's General Fund to provide solid waste-related services to its residents and businesses. As part of its solid waste franchise agreement (Agreement) with CR&R Incorporated (CR&R), the City regulates solid waste rates for residential and commercial customers.

STUDY PURPOSE AND OBJECTIVES

The purpose of this study is to conduct an analysis of the value and costs associated with the City's solid waste franchise.

This study has several key objectives:

- Evaluate potential Franchise Fee valuation methodologies for both legal and financial viability.
 - Inventory and account for the City's direct and indirect costs associated with managing CR&R's Agreement including, but not limited to, CR&R's use of the City's right-of-way for customers to place their collection containers at the curb.
 - Calculate the value of other direct and indirect costs of the Enterprise that are either reimbursed to the General Fund or from other parties (e.g., solid waste franchisee).
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LEGAL REQUIREMENTS

Fees imposed by local governments are not “taxes” within the meaning of Article XIII C, Section 1(e) of the California Constitution (Proposition 26) if they fall within one of seven enumerated exemptions. Of particular relevance to this report are the first and fourth exemptions to Proposition 26. The first exemption authorizes local governments to impose fees for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege. The fourth exemption authorizes fees imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property. In the context of Franchise Fees, the California Supreme Court held that local government property means physical land, objects, or equipment that those who pay the charge can either enter or use (*Zolly v. City of Oakland* (2022) 13 Cal.5th 780, 807–808).

This report shows different approaches for determining the value of the physical land used by the franchised hauler in furtherance of its operations in the City—namely, encroachment of the public right-of-way—to satisfy the requirements of the fourth exemption to Proposition 26 with respect to a portion of the Franchise Fee.

Encroachment Value

HF&H analyzed what would constitute a reasonable fee that the City could charge for CR&R’s extraordinary use of its public right-of-way. On-street collection requires temporary placement of containers in the public right-of-way. Access to containers afforded to CR&R personnel serves as a temporary encroachment in the public right-of-way, which interferes with normal public uses of that right-of-way, such as on-street parking.

Additionally, HF&H performed an alternative cost analysis to estimate the potential rate and cost impacts if the City were to prohibit customers from placing collection containers in the public right-of-way. This analysis showed that applying on-premise service rates—such as lock rates or scout services, which reflect the added cost of a driver dismounting the vehicle to access and service collection containers—would result in an additional \$5.2 million in costs and rate impacts. However, this methodology is not included in our findings and recommendations for determining a reasonable Franchise Fee value.

FINDINGS AND RECOMMENDATIONS

On-street collection requires temporary placement of containers in the public right-of-way. The access to containers afforded to CR&R personnel serves as a temporary encroachment to on-street parking. HF&H analyzed a reasonable fee that the City could charge for the use of its public right-of-way, based on existing fees for the allowance of the finite use of space in the City’s right-of-way which can be found in the City’s master fee schedule. The existing fee most similar to the encroachment by CR&R to collect solid waste containers was found to be the Encroachment Renewal Inspection Fee as it involves regular disruption, but the disruption does not require construction, damage to or repair of City property.

In preparing this analysis, the following findings were made.



Encroachment Renewal Inspection Fee Value – Residential

HF&H determined that the City could charge up to \$2,175,098 for the use of public right-of-way to place containers for the purpose of residential solid waste collection. This amount was determined by using the Renewal Inspection Fee of \$52 for each residential account serviced via the public right-of-way within the City. The Renewal Inspection Fee for drop-off boxes, recycling bins, etc. is assumed to cover the use of up to 20 feet of space. Several additional assumptions were employed to calculate the encroachment value of the containers, including: (1) collection occurs once per week; (2) the Renewal Inspection Fee is for one month; and (3) 24,400 residential accounts are accessed using public roads and are authorized under the Agreement to place containers in the street for collection. To calculate the maximum encroachment value, the \$52 Renewal Inspection Fee—assumed to be per month—was multiplied by 12 and divided by seven to reach a one-time, once-per-week annual fee of \$89.14 per account. The per-account amount (\$89.14) was then multiplied by the total residential accounts included in the assumptions above (24,400), resulting in a Renewal Inspection Fee value of \$2,175,098 for solid waste containers. **Table 1** below summarizes the calculation of the maximum right-of-way encroachment value with this approach.

Table 1

Renewal Inspection Fee Value		
a	Renewal Inspection Fee monthly cost	\$52.00
b=a*12	Renewal Inspection Fee value per account (\$/year)	\$624.00
c=b/7	Renewal Inspection Fee value per account (\$/year/1x/week)	\$89.14
d	Total residential accounts	24,400
e=c*d	Annual encroachment value	\$2,175,098

Note: Numbers may not be calculated exactly due to rounding.

Encroachment Renewal Inspection Fee Value – Commercial

HF&H determined that the City could charge up to \$198,150 for the use of public right-of-way to place containers for the purpose of commercial solid waste collection. This amount was determined by using the Renewal Inspection Fee of \$52 per commercial account serviced via the City’s public right-of-way. Several additional assumptions were employed to calculate the encroachment value, including: (1) container collection occurs once per week; (2) the Renewal Inspection Fee is for one month; and (3) 2,223 commercial accounts are accessed on public roads and are authorized for street collection under the Agreement. To calculate the maximum encroachment value, the \$52 Renewal Inspection Fee—assumed to be per month—was multiplied by 12 and divided by seven to reach a one-time, once-per-week annual fee of \$89.14 per account. The per-account amount of \$89.14 was multiplied by the total commercial accounts above (2,223), resulting in an encroachment value of \$198,150 for commercial solid waste containers. **Table 2** below summarizes the calculation of the maximum value for this approach.



Table 2

Renewal Inspection Fee Value		
a	Renewal Inspection Fee monthly cost	\$52.00
b=a*12	Renewal Inspection Fee value per account (\$/year)	\$624.00
c=b/7	Renewal Inspection Fee value per account (\$/year/1x/week)	\$89.14
d	Total commercial accounts	2,223
e=c*d	Annual encroachment value	\$198,150

Note: Numbers may not be calculated exactly due to rounding.

CONCLUSION

The reasonable fee for the use of public right-of-way based on the Encroachment Renewal Inspection Fee value is up to \$2,175,098 for residential container placement and up to \$198,150 for commercial container placement for a combined amount of \$2,373,248.

HF&H has found that the reasonable amount to be collected through a Franchise Fee in exchange for CR&R's use of the public right-of-way is up to \$2,373,248. This amount should be escalated by CPI (Consumer Price Index, Series ID: CUURS49ASAO, All items in Los Angeles-Long Beach-Anaheim, CA, all urban consumers, not seasonally adjusted (U. S. Department of Labor, Bureau of Labor Statistics.) to ensure that the amount reflected is adjusted over time and brought into then-current dollars.