

ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT

THIS ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT (this “**Agreement**”), is made and effective as provided herein among the County of San Bernardino, a public body, organized and existing under the laws of the State of California (“**County**”), BENZ SANITATION, INC., a California Corporation, (“**Benz**”) and USA WASTE OF CALIFORNIA, INC., a Delaware Corporation (“**USA Waste**”). Each of the parties to this Agreement is sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

- A. On June 16, 2009, County and Benz entered into an agreement between the County of San Bernardino and Benz for the Collection and Transportation of Solid Waste and Other Services (the “Franchise Agreement”) for County Franchise Area 21 (“CFA21”); Agreement No. 09-616.
- B. By letter dated June 7, 2016, Benz advised County that Benz has agreed to sell substantially all of its assets, including its rights under the Franchise Agreement, to USA Waste pursuant to an Agreement of Purchase and Sale of Assets dated as of April 22, 2016. Benz further advised that the transaction is contemplated to close in August 2016 (the “**Transaction**”). The actual date that the Transaction will close is currently unknown to Benz.
- C. On November 15, 2016, the County Board of Supervisors at its regularly scheduled meeting found, pursuant to Section 11 of the Franchise Agreement, that it had satisfactory information concerning WM as the proposed transferee in order to gauge its experience, management and good standing and, further, that WM is an existing franchise contractor to County residents and businesses since July 1, 1998.
- D. Once the Transaction has closed, USA Waste agrees to assume Benz’s performance obligations under the Franchise Agreement, and will abide by the terms and conditions of the Franchise Agreement.
- E. Once the Transaction has closed, Benz desires to have County release Benz from all future obligations under the Franchise Agreement.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the Parties hereto agree as follows:

Section 1. Assignment. Upon the close of the Transaction, but not prior to, **Benz** hereby assigns, transfers, and conveys to USA Waste all of Benz’s rights, benefits, and interests in the Franchise Agreement and delegates to USA Waste all of Benz’s duties and obligations under the Franchise Agreement commencing on the Actual Effective Date as defined in Section 3, of this Agreement.

Section 2. Acceptance of Obligations of Franchise Agreement. Upon the close of the Transaction, but not prior to, USA Waste hereby accepts the assignment, transfer and conveyance of the Franchise Agreement and hereby assumes all of Benz's duties and obligations under the Franchise Agreement commencing on the Actual Effective Date as defined in Section 3, of this Agreement. Furthermore, USA Waste (i) approves, ratifies, and confirms the terms, covenants, conditions and provisions of the Franchise Agreement, (ii) agrees to perform all of the duties and obligations imposed by the Franchise Agreement, and (iii) agrees to be bound by all of the terms, covenants, conditions, provisions and obligations under the Franchise Agreement.

Section 3. County's Consent to Assignment.

- a. In accordance with the Franchise Agreement, the County consents to the assignment and assumption of the Franchise Agreement by USA Waste, and releases Benz from its future obligations under the Franchise Agreement contingent upon (i) the close of the Transaction prior to the date that is 60 calendar days from the date of the Board of Supervisors' approval of this Agreement (the "Actual Effective Date") and (ii) Benz' 72 hour prior written notification to the County of the specific date of the Actual Effective Date within said 60 calendar days. The prior written notification to the County required herein shall be delivered via personal delivery or overnight delivery service to Arthur L. Rivera, Deputy Director, Solid Waste Management Division, 222 Hospitality Lane, Second Floor, San Bernardino, CA 92415-0017, telephone (909) 386-8701.
- b. In the event that the Transaction does not close prior to the date that is 60 calendar days from the date of the Board of Supervisors' approval of this Agreement, the Board's consent and this Agreement shall immediately become null and void and of no legal effect.

Section 4. Severability. If a court or an arbitrator of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or provisions of them, will not be affected.

Section 5. Headings. The headings in this Agreement are included for convenience only and shall neither affect the construction nor the interpretation of any provision in this Agreement nor affect any of the rights and obligations of the Parties of this Agreement.

Section 6. Ambiguities. Each Party has had an opportunity to consult with legal counsel and that legal counsel has participated fully in the review of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in interpreting this Agreement.

Section 7. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall be deemed one instrument. Facsimile copies shall be deemed to be original copies.

Section 8. Authority. Each signatory to this Agreement represents and warrants that he/she is duly authorized to execute this Agreement on behalf of the respective Party.

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound, have executed this Assignment as of the date first above written.

[Signatures Follow]

Benz Sanitation, Inc.

USA Waste of California, Inc.

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____