

## ATTACHMENT A

### AMENDMENT NO. THREE TO AGREEMENT FOR BEACH CONTAINER REFUSE COLLECTION SERVICE WITH RAINBOW DISPOSAL CO., INC.

THIS AMENDMENT NO. THREE TO BEACH CONTAINER REFUSE COLLECTION SERVICE AGREEMENT ("Amendment No. Three") is made and entered into as of this 27th day of September, 2022 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and RAINBOW DISPOSAL CO., INC., a California corporation ("Contractor"), whose address on file with the Secretary of State is 18500 North Allied Way, Phoenix, Arizona 85054, with a local address of 17121 Nichols Lane, Huntington Beach, California 92647, and is made with reference to the following:

#### RECITALS

- A. On January 11, 2011, City and Contractor entered into an Agreement for Beach Container Refuse Collection Service ("Agreement") for refuse collection, disposal and maintenance services for beach containers on a regular basis ("Project").
- B. On August 13, 2019, City and Contractor entered into Amendment No. One to the Agreement ("Amendment No. One") to increase the total compensation based upon an unanticipated increase in the volume of services, to amend the Administration and Notices sections of the Agreement, and to add sections related to No Attorneys Fees and Counterparts.
- C. On October 13, 2020, City and Contractor entered into Amendment No. Two ("Amendment No. Two") to increase the total compensation based upon an unanticipated increase in the volume of services, to update Exhibit B, extend the term of the Agreement to December 31, 2022, amend Hold Harmless section, and update insurance requirements.
- D. The parties desire to enter into this Amendment No. Three to increase the total compensation, update the Scope of Services, amend the Schedule of Billing Rates, and extend the term of the Agreement to February 28, 2026.

**NOW, THEREFORE**, it is mutually agreed by and between the undersigned parties as follows:

#### 1. TERM

Section 1 of the Agreement is amended in its entirety and replaced with the following: "The term of this Agreement shall commence on the Effective Date, and shall terminate on February 28, 2026, unless terminated earlier as set forth herein."

#### 2. SERVICES TO BE PERFORMED

Exhibit A to the Agreement shall be amended in its entirety and replaced to include the Scope of Services, attached hereto as Exhibit A and incorporated herein by reference

("Services" or "Work"). The City may elect to delete certain Services within the Scope of Services at its sole discretion.

### 3. COMPENSATION TO CONTRACTOR

Exhibit B to the Agreement shall be supplemented to include the Schedule of Billing Rates, attached hereto as Exhibit B and incorporated herein by reference ("Services" or "Work"). Exhibit B to the Agreement, Exhibit B to Amendment No. One, Exhibit B to Amendment No. Two and Exhibit B to this Amendment No. Three shall collectively be known as "Exhibit B."

Section 4 of the Agreement is amended in its entirety and replaced with the following:

"City shall pay Contractor for the Services on a not-to-exceed basis in accordance with the provisions of this Section and the Schedule of Billing Rates attached hereto as Exhibit B and incorporated herein by reference. Contractor's compensation for all Services performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed **Three Million Forty Five Thousand Five Hundred Five Dollars and 73/100 (\$3,045,505.73)**, without prior written authorization from City. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City.

Upon the first anniversary of the Effective Date and upon each anniversary of the Effective Date thereafter, the billing rates set forth in Exhibit B ("Billing Rates") shall be adjusted in proportion to changes in the Consumer Price Index, subject to the maximum adjustment set forth below. Such adjustment shall be made by multiplying the Billing Rates in Exhibit B by a fraction, the numerator of which is the value of the Consumer Price Index for the calendar month three (3) months preceding the calendar month for which such adjustment is to be made, and the denominator of which is the value of the Consumer Price Index for the same calendar month immediately prior to Effective Date. The Consumer Price Index to be used in such calculation is the "Consumer Price Index, All Items, 1982-84=100 for All Urban Consumers (CPI-U)", for the Los Angeles-Riverside-Orange County Metropolitan Area, published by the United States Department of Labor, Bureau of Labor Statistics. If both an official index and one or more unofficial indices are published, the official index shall be used. If said Consumer Price Index is no longer published at the adjustment date, it shall be constructed by conversion tables included in such new index. In no event, however, shall the amount payable under this Agreement be reduced below the Billing Rates in effect immediately preceding such adjustment. The maximum adjustment increase to the Billing Rates, for any year where an adjustment is made pursuant to this Section, shall not exceed the Consumer Price Index or 2.0% of the Billing Rates in effect immediately preceding such adjustment, whichever is less."

The total amended compensation reflects Contractor's additional compensation for additional Services to be performed in accordance with this Amendment No. Three, including all reimbursable items and subconsultant fees, in an amount not to exceed **One Million One Hundred Forty Seven Thousand Eight Hundred Eighty One Dollars and 43/100 (\$1,147,881.43)**.

#### **4. INTEGRATED CONTRACT**

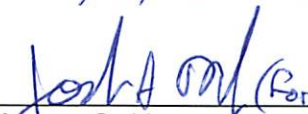
Except as expressly modified herein, all other provisions, terms, and covenants set forth in the Agreement shall remain unchanged and shall be in full force and effect.

**[SIGNATURES ON NEXT PAGE]**

**IN WITNESS WHEREOF**, the parties have caused this Amendment No. Three to be executed on the dates written below.

**APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE**

Date: 9/19/22

By:  (For)  
Aaron C. Harp  
City Attorney

**CITY OF NEWPORT BEACH,**  
a California municipal corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Kevin Muldoon  
Mayor

**ATTEST:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Leilani I. Brown  
City Clerk

**CONTRACTOR: RAINBOW DISPOSAL  
CO., INC.,** a California corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_  
David Hauer  
Market Vice President

**[END OF SIGNATURES]**

Attachments:      Exhibit A – Scope of Services  
                         Exhibit B – Schedule of Billing Rates

# **EXHIBIT A**

## **SCOPE OF SERVICES**

Furnish all labor, equipment, materials and supervision to perform maintenance as described herein including, but not limited to, the following:

1. Furnish containers according to City-approved specification.
2. Collect refuse from designated containers and area immediately surrounding designated containers on beach on a regularly scheduled basis.
3. Notify City Operations Support Superintendent within 2 hours of bulky items or hazardous materials in designated containers and area immediately surrounding designated containers on the beach.
4. Clean interior and exterior of all employed containers on beach twice yearly. Once between May 1-31 and again between Labor Day and September 30. Any service requests for cleaning over and above the annual schedule listed above shall be charged the cart clean-out rate listed on Exhibit B – Schedule of Billing Rates.
5. Remove/repair/clean graffiti off/on designated containers on the beach within 24 hours of notice.
6. Summer Season Schedule shall commence on the Sunday preceding March 15th and shall continue until the first Saturday after September 15th, (27 weeks total). The Non-Summer Season Schedule shall commence for the remaining 25 weeks of the year.
7. The Summer Season Schedule service days shall be: Monday, Tuesday, Friday, Saturday and Sunday. The City may request additional service days (Wednesday and/or Thursday) upon request.
8. The Non-Summer Season Schedule service days shall be Monday and Friday.
9. Contractor shall properly collect and dispose of all solid waste collected by taking it to a fully permitted Orange County ("County") certified/licensed landfill or to a fully permitted licensed transfer station, which is lawfully authorized to accept that specific type of solid waste material and has been approved by the City. Contractor agrees to assist the County in verifying tonnage collected by Contractor and providing information required by the County. Contractor will provide, upon request, refuse tonnage collected within the County, and outside the County (if relevant to confirming tonnage origination), separated by jurisdiction, by load type (residential, commercial, roll-off box), and by facility to which it was delivered (specify which landfill or transfer station). Contractor will provide customer service levels and route

lists. Contractor will cooperate with County audits to verify reported origin of tonnage by making records and personnel available to the County and/or its auditors.

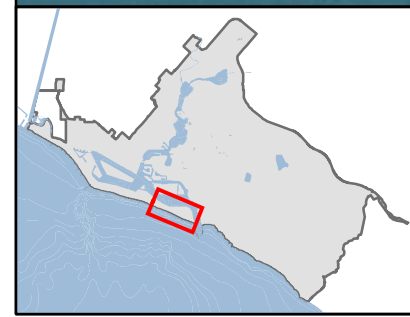
10. Contractor shall abide by all applicable legislation as it pertains to waste hauling and diversion requirements. This includes, but is not limited to, California Senate Bill No. 1383, Short-Lived Climate Pollutants law. Contractor will be required to transport all non-organic material collected to an approved Material Recover Facility for processing. Where applicable and pre-approved, an organics diversion program must be implemented. Contractor must demonstrate the ability to provide this service, provide the location(s) where this service will be provided, and the name and address of any location(s) where the collected organic waste will be taken for processing.



## Area 1 - Beach Bin Service Areas



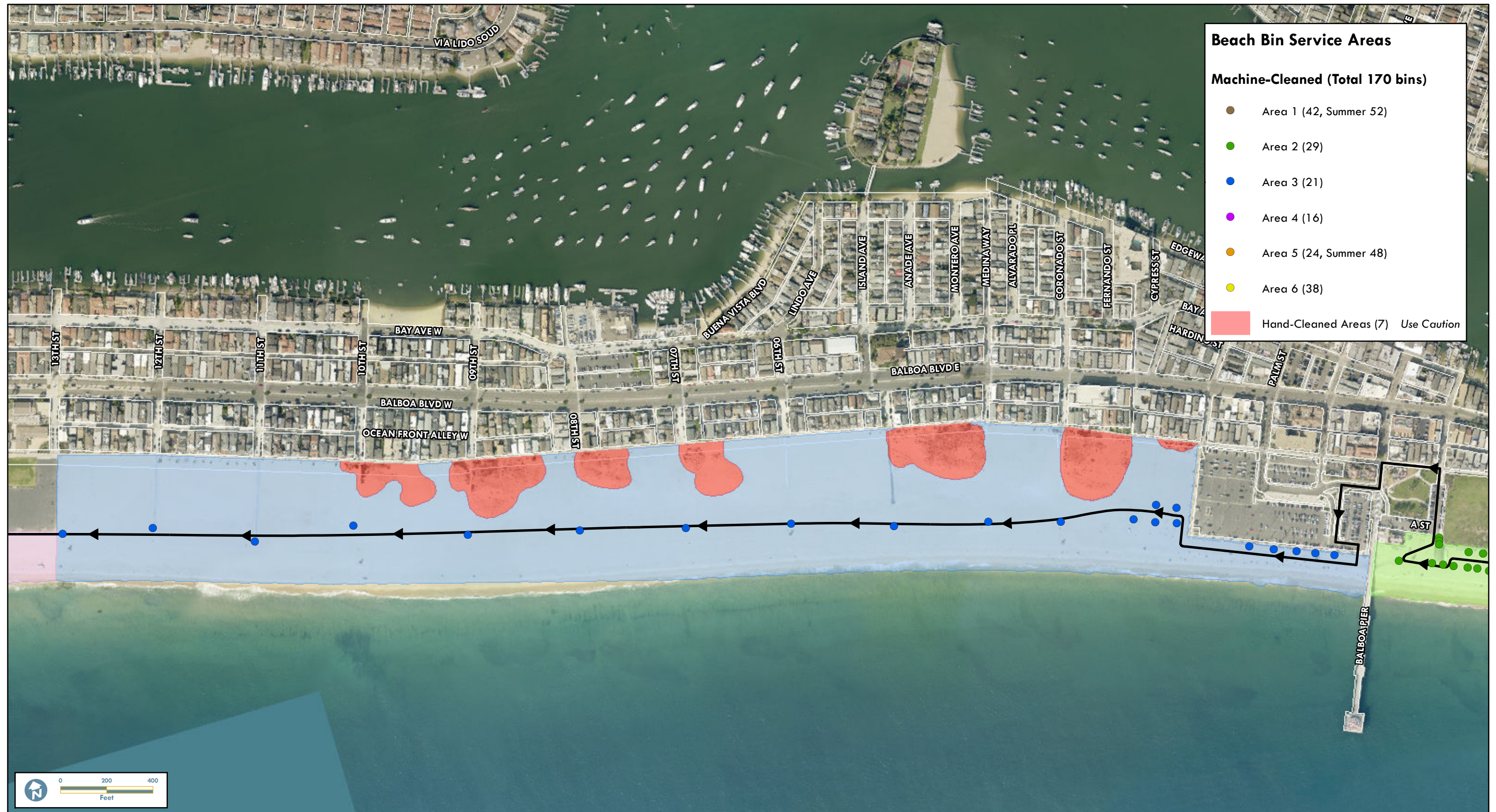
City of Newport Beach  
GIS Division  
September 06, 2022



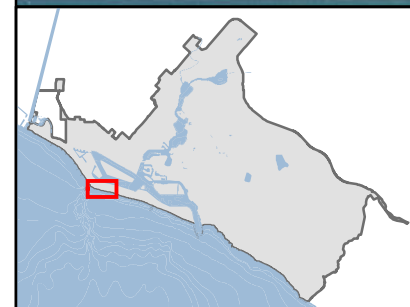
## Area 2 - Beach Bin Service Areas



City of Newport Beach  
GIS Division  
September 06, 2022



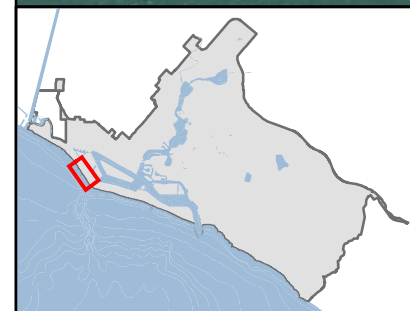
## Area 3 - Beach Bin Service Areas



## Area 4 - Beach Bin Service Areas



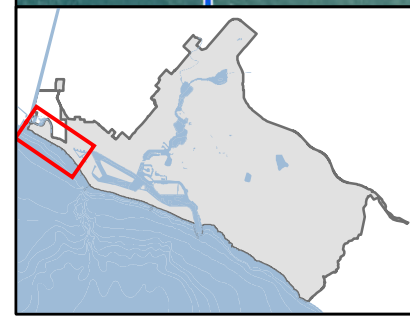
City of Newport Beach  
GIS Division  
September 06, 2022



## Area 5 - Beach Bin Service Areas



City of Newport Beach  
GIS Division  
September 06, 2022



## Area 6 - Beach Bin Service Areas



City of Newport Beach  
GIS Division  
September 06, 2022

# EXHIBIT B

## SCHEDULE OF BILLING RATES

I. Rates Effective October 1, 2022:

TIP RATE
\$7.02
CART CLEANOUT RATE
\$17.91

II. Rates Effective February 1, 2023:

TIP RATE
\$7.55
CART CLEANOUT RATE
\$19.34