

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

AMENDMENT TO CONTRACT  
BETWEEN  
CITY OF DURHAM AND OTTO CONTAINER MANAGEMENT, LLC  
FOR ROLL-OUT CART SERVICES

THIS CONTRACT is made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 2015, by Otto Container Management, LLC, a limited liability company organized and existing under the laws of Delaware, whose principle office and place of business is Charlotte, North Carolina (the “Contractor” or “Otto”) and the City of Durham, North Carolina, a municipal corporation (the “City”). The contract between the parties entitled "Contract between City of Durham, North Carolina and Otto Container Management, LLC for Roll-Out Cart Services and Agreement Between the City of Durham and Otto Environmental Services (NC), LLC for One-Time Rental Cart Buy-Out", dated August 6, 2012 ( "Agreement") is amended as follows:

1. **Exhibit B**, entitled, “**Scope of Work for Cart Maintenance, Repair, and Delivery of Roll-Out Carts,**” is replaced in its entirety with the attached revised Exhibit B.
2. **Exhibit C**, entitled, “**Compensation,**” is replaced in its entirety with the attached revised Exhibit C.
3. **Section 7**, entitled, “**Term,**” is replaced with the following:  
“The initial term of this Contract was three years, beginning August 6, 2012. The Parties by amendment effective August 6, 2015, have modified the Contract and renewed it for an additional three year term terminating midnight of August 31, 2018 (the “Second Term”).
4. Except as amended, the Contract is reaffirmed and remains in full force and effect.

IN WITNESS WHEREOF, the City and the Contractor have caused this contract to be executed under seal themselves or by their respective duly authorized agents or officers.

OTTO CONTAINER MANAGEMENT, LLC

BY: \_\_\_\_\_

Name: \_\_\_\_\_

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

State of: \_\_\_\_\_

County of: \_\_\_\_\_

ACKNOWLEDGEMENTS BY  
OTTO CONTAINER MANAGEMENT, LLC

I, a notary public in and for the aforesaid county and state, certify that \_\_\_\_\_  
Personally appeared before me this day and state that he or she is \_\_\_\_\_  
of Otto Container Management, LLC, a limited liability company, and that by authority duly  
given and as the act of compensation, he or she signed the foregoing contract with the City of  
Durham and the corporate seal was affixed thereto. This the \_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

CITY OF DURHAM

BY: \_\_\_\_\_

This instrument has been preaudited in the  
manner required by the Local Government  
Budget and Fiscal Control Act.

\_\_\_\_\_  
FINANCE OFFICER

\_\_\_\_\_  
DATE

**Exhibit B**  
**Scope of Work for Maintenance, Repair,**  
**And Delivery of Roll-Out Carts**

The following Scope of Services shall be executed through the term of this Contract. The objective of this program is to assure that all Carts (“Carts”) are maintained in good working condition. A complete Cart shall include the cart body, wheels and axle, lid, hinge pins and handle and any other components required for the proper functioning of the cart.

1. Otto shall:
  - a. Maintain, repair and deliver existing Carts;
  - b. Wash existing Carts;
  - c. Execute pick-up and delivery of Carts for any customer changes;
  - d. Receive, assemble and distribute new Carts purchased by the City of Durham.
2. Work Order Actions (“Actions”) include the delivery, pickup, and in-field repair of carts including replacement of missing or damaged cart components such as handles, wheels, lids, etc.
3. Otto will repair and maintain all Carts in the City’s inventory regardless of the manufacturer, provided that components are procured by the City for brands other than Otto, and are made available to Otto’s maintenance crews. To the extent practical, Otto shall use parts scavenged from non-reparable Carts regardless of manufacturer to repair Carts. However, any Otto-brand carts that are currently under Warranty will have all parts provided by Otto at their expense.
4. No less than monthly, Otto and the City of Durham will review a list of all Carts that Otto recommends be scrapped, with each Cart identified by serial number. All Carts the City of Durham agrees shall be scrapped will be recycled by Otto and the value of the resin will be paid to the City of Durham at the current market rate.
5. Otto will be available from 8:00 AM – 4:30 PM Monday through Friday, excluding non-operating holidays, and respond to customer requests for roll-out cart replacements, repair and/or delivery within two (2) business days of notification. The City will make every effort to notify Otto as soon as possible when requests are made in order to allow Otto to efficiently allocate resources.
6. New customers initiating service will received their carts within three (3) days from the date of request.
7. All requests for service shall be submitted in writing. Notification by email shall qualify as “in writing.”
8. In no event shall the maintenance, repair and/or delivery of Carts by Otto interfere with the normal operations of the City of Durham.

9. The City of Durham agrees to furnish at no cost reasonable yard space, washing space, and office space to Otto to be used solely for the purpose of providing the Services specified in this Contract. Any administrative office supplies (paper, stapler, pens, etc.) will remain an expense borne by Otto.
10. Otto will keep all of its equipment, including but not limited to service trucks, etc., in good repair and operation. Occasionally, and with the permission of the City, Otto may require using the City's lifting equipment to offload in-bound trucks, and this will be coordinated with the City in advance of the shipments.
11. Otto will display the Otto Container Management logo on all vehicles assigned to this Contract to identify the company as a service provider for the City of Durham.
12. Otto shall not be deemed in default if its non-performance is directly attributable to the City's failure to supply adequate Carts, parts, yard space or office space. Office space shall be no less than \_\_\_ square feet and shall include a desk, desk chair and filing cabinet. Yard space shall be adequate for parking of at least two personal vehicles and two trucks used in the course of providing services to the City of Durham. So long as the City provides office and yard space as identified above, it shall be deemed to have fulfilled this contract requirement.
13. Otto will deliver and retrieve Carts for special events taking place during evenings and/or weekends with at least 72-hours prior notice from the Solid Waste Management Director or designee.
14. Welding services will be provided at the request of the City of Durham on an as-needed basis (checked quarterly by Otto) at no additional cost to the City.
15. Within forty-five (45) days of the start of the Second Term, Otto will upgrade its current Work Order Management System ("WOMS") with the conversion of all work orders to an electronic tablet system. Work orders will be exported daily from the City's work order management system via Excel file and sent to Otto to be imported into Otto's WOMS, uploaded onto tablets and transmitted back to the City upon completion by Otto, or closed out in the City's work order system. Otto's WOMS shall include the following capabilities:
  - a. Create/modify/delete work orders
  - b. Upload/Download Work Orders
  - c. Take Pictures for documentation with Work Order (Beta Stage)
  - d. Interface to Customer Backend System (Flat File Transfer)
  - e. Break down address information provided by customer by zip code (Beta Stage at first implementation, to be finalized within \_\_\_ days of the first amendment's execution)
  - f. Customer Reporting
  - g. Serial # Support

h. RFID Support (RFID Scanner)

16. An RFID inventory control system shall be implemented, and each cart put into service or repaired during the Second Term will be retrofit with an RFID chip. Each retrofit must be accompanied by a standard work order Action. Each cart that is retrofit will count as a separate additional work order Action. The City will be responsible for the purchase of RFID chips and spare parts (hinge pins, etc.) to be used for retrofits. Upon arrival at the residence, each cart will be registered to its appropriate address. At each month's end, the City and Otto shall do a reconciliation of the total work order Actions and RFID retrofits for billing purposes.

17. Within \_\_\_\_\_ [state period of time] after the start of the Second Term, Otto shall implement a fully integrated WOMS so that Otto will close out work orders within the City's Cityworks system without City assistance. To facilitate implementation of this capacity, the City's TS department shall provide Otto with access to the City's system.

Otto will assist the City to implement a one (1) year RFID collection pilot program. As part of this pilot, OTTO at its own expense will install RFID collection equipment on one (1) recycling truck that will be used to collect participation data from a selected route. The City will be responsible for ensuring that all containers on the route are outfitted with RFID tags through new containers or retrofit of existing containers, and shall pay a monthly service charge of \$150 required to grant the City access to an online web portal and hosted applications.

18. The pilot will be deemed a success if it reaches or exceeds benchmark goals approved pre-pilot by Otto and the City, with City approval including approval by the City Council. If the pilot is a success and the City Council determines it is in the City's best interest, the City will agree to purchase a minimum of five (5) RFID truck units from Otto, to begin outfitting its collection truck fleet with the RFID collection equipment. If the pilot is found to be unsuccessful or the City Council determines it is not in the City's best interest to move forward with the RFID systems, the City agrees to return the RFID collection equipment to OTTO, with no further cost to the City.

**Exhibit C**  
Compensation

The following sets forth the compensation to be paid to Otto for the Services under this Contract:

1. Contractor shall be compensated for the Services at a flat rate of \$17,500 per month for up to **1,500** Actions.
2. Cart Actions exceeding **1,500** per month will be invoiced at \$10.95 per completed Action.
3. Cart Actions exceeding 1,500 per month that include retrofitting a Cart with an RFID tag will be billed \$2.25 in addition to \$10.95 per completed Action for a total of \$13.20.
4. Both parties agree that any Cart Actions outside the normal day-to-day activity shall be negotiated in good faith. Actions outside normal activity shall be described as any single "project" involving more than **50** Carts.
5. Otto may charge a fuel surcharge. Fuel shall be base-lined from the Department of Energy Diesel Fuel Price Index for the Lower Atlantic Region average of \$3.42 per gallon for the period from May 5, 2014 through April 27, 2015 ("Baseline Fuel Price"). Each monthly invoice may have a fuel surcharge if the average monthly fuel cost index price exceeds the Baseline Fuel Price or a fuel discount if the average monthly fuel cost index price falls below the Baseline Fuel Price ("Fuel Delta"). The fuel surcharge/discount shall be calculated as follows:

**A = Dept. of Energy, Monthly Regular All Formulations Retail Price Index for diesel fuel in the Lower Atlantic Region.**

**B = Baseline Fuel Price per gallon of diesel fuel**

**C = Ten (10) average miles per gallon of diesel fuel consumption**

**D = 150 (average number of miles driven per day per truck)**

**E = Number of trucks in service**

**F = Number of actual Service days per month**

**A - B = X (change in price per gallon of fuel)**

**D / C = Y (gallons per truck, per day)**

**Y x E = Z (total gallons per day in providing services)**

**Z x F = M (total gallons per month in providing services)**

**M x X = S (monthly fuel surcharge)**

By the fifth (5<sup>th</sup>) day of each month, Otto shall submit its invoice to the City for the flat rate (including any applicable fuel surcharge/discount), as well as an invoice for any additional Cart Actions above and beyond 1,500 per month. If a discrepancy arises between the number of additional Cart Actions billed each month by Otto and the number the City calculates occurred, the parties shall confer within fifteen (15) days of detection of such discrepancy to agree upon the number of additional Cart Actions to be paid for by the City.