

FOURTH AMENDMENT TO SOLID WASTE COLLECTION SERVICES AGREEMENT
BETWEEN THE CITY OF SANTA ROSA AND RECOLOGY SONOMA MARIN,
DBA RECOLOGY SANTA ROSA

This Fourth Amendment to the Solid Waste Collection Services Agreement ("Amendment") is entered into as of May [____], 2022 between the City of Santa Rosa ("City") and Recology Sonoma Marin, dba Recology Santa Rosa ("Recology").

WHEREAS, City and Recology are parties to a Solid Waste Collection Services Agreement dated August 29, 2017 (such agreement as amended, the "Agreement");

WHEREAS, the parties wish to amend the Agreement to assist City in complying with the SB 1383 Regulations (as defined in Exhibit A);

WHEREAS, City intends to implement a 3-container Organic Waste collection service as contemplated by Section 18984.1 of the SB 1383 Regulations.

NOW, THEREFORE, the parties agree as follows:

1. Effective Date. This Amendment shall take effect when signed by both parties (the "Effective Date").
2. Definitions. For purposes of this Amendment, the terms set forth in Exhibit A, attached hereto and incorporated herein, shall have the meanings given to them in such exhibit.
3. Three-Container Organic Waste Collection Services.
 - 3.1. Phased Implementation. City and Contractor acknowledge that Contractor's Organic Waste Collection routes must be expanded to satisfy the requirements of the SB 1383 Regulations, and that new collection trucks must be procured by Contractor in order to provide such services. Between the Effective Date and December 31, 2023, Contractor shall continue and expand its existing Organic Waste collection service within City. By January 1, 2024, Contractor shall provide Organic Waste collection service to all of its customers within City who are subscribed to and pay for Solid Waste collection service, unless (i) the customer is not required under City's municipal code to subscribe for Organic Waste collection service, or (ii) the customer qualifies for a State- or locally-issued waiver, or (iii) the customer refuses to accept such service. Contractor shall report to City any customers who refuse to accept such service in Contractor's next regularly scheduled report to City, as required by Section 8.
4. Route Reviews.
 - 4.1. General Requirement. At least once annually, beginning in 2022, Contractor shall conduct a Route Review for each Hauler Route. For each Route Review of a Hauler Route, Contractor shall inspect at least the following minimum number of Containers, but may inspect more if Contractor wishes. Each inspection shall involve lifting the Container lid and observing the contents, but shall not require Contractor to disturb the contents or open any bags. Contractor may select the Containers to be inspected at random, or (if mutually agreed with City) by any other method not prohibited under the SB 1383

Regulations. For the avoidance of doubt, Contractor shall not be required to annually inspect every Container on a Hauler Route. Contractor shall include the results of each Route Review in its next regularly scheduled report to City, as required by Section 8.

<u>Route Size (# accounts)</u>	<u>Minimum Number of Containers</u>
Less than 1,500	25
1,500-3,999	30
4,000-6,999	35
7,000 or more	40

4.2. Notice of Contamination. If Contractor finds Prohibited Container Contaminants in a Container during a Route Review, Contractor shall notify the Service Recipient of the violation in writing. The written notice shall include information regarding the Service Recipient’s requirement to properly separate materials into the appropriate Containers. The notice may be left on the Service Recipient’s Container, gate, or door at the time the violation is discovered, and/or be e-mailed, electronically messaged or delivered personally to the Service Recipient. In addition to the notice provided under the preceding sentence, Contractor shall mail a written notice regarding the violation to the billing address for the account. Contractor may dispose of the contents of any Container found to contain Prohibited Container Contaminants. The notice shall be provided in English and Spanish.

5. Contamination. Section 3.07 of the Agreement is hereby amended to read in its entirety as follows:

“3.07. Contamination. CONTRACTOR shall only be required to collect Recyclable Material if it has been Source Separated by the Service Recipient from Garbage and Organic Waste, and shall only be required to collect Organic Waste if it has been Source Separated by the Service Recipient from Garbage and Recyclable Material. If, by visual (including video) inspection, Recyclable Materials are commingled with ten percent (10%) or more by volume of Garbage or Organic Waste, or Organic Waste is commingled with three percent (3%) or more by volume of Garbage or Recyclable Materials, then the Recyclable Materials or Organic Waste Container will be deemed to be contaminated, and Contractor may take the following steps:

3.07.1. First and Second Occurrence. For the first and second occurrence within any calendar year of an observed contaminated Recyclable Materials or Organic Waste Container for a particular Service Recipient location, Contractor must collect the contaminated Container and must notify the Service Recipient of proper procedures for sorting Recyclable Materials or Organic Waste. The notice may be given by affixing a tag to the contaminated Container, or may be given by phone, text, U.S. mail, e-mail, other electronic means, or in person. The notice must also specify that for the third or subsequent incident of excess contamination, the Service Recipient may be charged a contamination fee for the contaminated container not to exceed the amount set forth in Exhibit 1.

3.07.2. Third and Subsequent Occurrence. For the third or subsequent occurrence within any calendar year of an observed contaminated Recyclable Materials or Organic Waste Container for a particular Service Recipient location, Contractor must collect the contaminated Container and may charge the Service Recipient a contamination fee not to exceed the amount set forth in Exhibit 1.

3.07.3. Tracking Occurrences of Contamination. Each observed contamination occurrence under Section 3.07.1 or 3.07.2 shall be tracked by Contractor for each Service Recipient location. For purposes of such tracking, occurrences for Recyclable Materials Containers and Organic Waste Containers shall be counted together. For example, if during a given calendar year a particular service location has one observed contamination occurrence for a Recyclable Materials Container, and another for an Organic Waste Container, then the next observed occurrence during that calendar year (whether for a Recyclable Materials or Organic Waste Container) would be considered the third occurrence, and Section 3.07.2 would apply. The count for each Service Recipient location shall be reset to zero at the start of each calendar year.

3.07.4 Severe Contamination. Notwithstanding the foregoing, if, by visual (including video) inspection, Recyclable Materials are commingled with twenty percent (20%) or more by volume of Garbage or Organic Waste, or Organic Waste is commingled with twenty percent (20%) or more by volume of Garbage or Recyclable Materials, then Contractor may refuse to collect the Container. In such event, Contractor shall affix a tag to the Container notifying the Service Recipient of the reason for non-collection, and offering to return and collect the Container as Garbage for an additional charge, if the Service Recipient so requests. If the Service Recipient so requests, then Contractor shall collect the Container as Garbage, and charge the Customer for a one-time extra Garbage pick-up of the same Container size, in an amount not to exceed the amount set forth in Exhibit 1. Incidents of contamination under this section are not counted as contamination occurrences under Section 3.07.1-3.07.3.

3.07.5 City-Authorized Change in Service. If Contractor observes repeated contamination at a Service Recipient location, Contractor may request the City Representative to approve a change in the Service Recipient's Recyclable Materials, Organic Waste and/or Garbage service. The City Representative may, in his or her sole discretion, grant or withhold such approval, or revoke any previously granted approval. If a change in service is approved by the City Representative and implemented by Contractor, then Contractor may charge the Service Recipient accordingly. As part of any request for approval under this section, Contractor shall submit to the City Representative documentation evidencing that there exists a repeat contamination problem, that Contractor contacted (or attempted to contact) the Service Recipient on multiple occasions regarding the problem, and that the Service Recipient refused to modify their service to address the problem, and/or did not respond to Contractor's attempts to contact them.

3.07.6 Flow Control. Notwithstanding the foregoing, if CONTRACTOR has reason to believe that collection of Recyclable Material or Organic Waste Carts or Bins containing more than ten percent (10%) contamination violates the Waste Delivery Agreement or any other flow control requirement binding on CITY or CONTRACTOR, then CONTRACTOR may, in lieu of the procedures set forth in Section 3.07.1-3.07.5, refuse to collect such Carts and Bins, and instead affix a Non-Collection Notice on the container explaining the reason for non-collection. CONTRACTOR shall provide at least thirty (30) days' prior written notice to CITY of such change."

6. Compliance Reviews.

6.1. General Requirement. At least once annually, beginning in 2022, Contractor shall review the records of its Commercial and Multi-Family customers in City that are subscribed for at least two (2) cubic yards per week of combined Solid Waste, Organic Waste and

Recyclable Materials service, to determine whether such customers are subscribed for Organic Waste collection service or have an applicable waiver. Contractor shall include the results of each compliance review in its next regularly scheduled report to City, as required by Section 8.

7. Education & Outreach.

7.1. On an annual basis, Contractor shall provide the following to all its customers under the Agreement:

7.1.1. Information on the Organic Waste Service Recipient's requirements to properly separate materials in appropriate containers.

7.1.2. Information on methods for: the prevention of Organic Waste generation, recycling Organic Waste on-site, sending Organic Waste to community composting, and any other local requirements regarding Organic Waste.

7.1.3. Information regarding the methane reduction benefits of reducing the landfill disposal of Organic Waste, and the methods of Organic Waste recovery contemplated by the Agreement.

7.1.4. Information regarding how to recover Organic Waste.

7.1.5. Information related to the public health and safety and environmental impacts associated with the landfill disposal of Organic Waste.

7.2. The above information will be provided, at a minimum, through print and/or electronic media, and may also be provided through workshops, meetings and/or on-site visits.

7.3. Educational materials provided pursuant to the above shall be translated into Spanish.

8. Reporting.

8.1. Beginning on the Effective Date, Contractor shall provide the following information to City as part of Contractor's regularly scheduled quarterly reports under the Agreement:

8.1.1. For information provided by Contractor pursuant to Section 7 above:

(a) Copies of all such information (including flyers, brochures, newsletters, invoice messaging, website and social media postings, emails, and other electronic messages).

(b) The date the information was disseminated or the direct contact made. For website and social media postings, this shall be the date posted.

(c) To whom the information was disseminated or the direct contact made. For mass distributions such as mailings or bill inserts, Contractor may provide the type and number of accounts receiving the information, rather than listing each recipient individually.

8.1.2. For Route Reviews and Compliance Reviews:

- (a) The date the review was conducted.
- (b) The name and title of each person conducting the review.
- (c) A list of the account names and addresses covered by the review.
- (d) For Route Reviews, a description of each Hauler Route reviewed, including Contractor's route number and a description of the Hauler Route area.
- (e) For Route Reviews, the results of such review (i.e. the addresses where any Prohibited Container Contaminants were found), and any photographs taken.
- (f) For Compliance Reviews, the results of such review (i.e. Contractor's findings as to whether the customers reviewed are subscribed for Organic Waste collection service, have an applicable waiver, or neither), and any relevant evidence supporting such findings (e.g. account records).
- (g) Copies of any educational materials issued pursuant to such reviews.

8.1.3. Documentation relating to observed Prohibited Container Contaminants, whether observed during Route Reviews or otherwise:

- (a) Copies of the form of each notice issued to Service Recipients for Prohibited Container Contaminants, as well as, for each such form, a list of the Service Recipients to which such notice was issued, the date of issuance, the Service Recipient's name and service address, and the reason for issuance (if the form is used for multiple reasons). This information will also be provided monthly to Zero Waste Sonoma if City requests.
- (b) The number of times notices were issued to Service Recipients for Prohibited Container Contaminants.
- (c) The number of Containers where the contents were disposed due to observation of Prohibited Container Contaminants.

8.1.4. A description of Contractor's process for determining the level of Container contamination under the Agreement.

8.1.5. Beginning January 1, 2024, Contractor shall include in its quarterly reports to City a list of any customers who during the reporting period refused to accept Organic Waste service. Consistent with Section 3.1, this list shall be limited to customers within City who are subscribed to and pay for Solid Waste collection service, are required under City's municipal code to subscribe for Organic Waste collection service, and do not qualify for a State- or locally-issued waiver.

9. Rate Adjustments.

9.1. Effective January 1, 2023, each rate set forth in Exhibit 1, as well each element of such rate (if any), shall be increased on a one-time basis by 1.9%, over and above any other adjustment that may be applicable under the Agreement or this Amendment (including

the adjustment under Section 9.3 below). For the avoidance of doubt, the 1.9% adjustment shall not be backed out of the rates or rate elements in subsequent years.

9.2. The second sentence of Section 4.05 of the Agreement is hereby deleted and replaced with the following:

“The earliest that a Detailed Rate Review (DRR) may be conducted is to adjust rates effective January 1, 2024. Once the first DRR is conducted, subsequent DRRs may only be conducted every 3rd year after the 1st DRR. (For example, if the first DRR is conducted to adjust rates effective January 1, 2025, then subsequent DRRs could only be conducted to adjust rates effective January 1, 2028, 2031, etc.).”

9.3. Effective January 1, 2023, the Disposal Element of each rate set forth in Exhibit 1 shall be increased on a one-time basis by 2.55%, over and above any other adjustment that may be applicable under the Agreement or this Amendment (including the adjustment under Section 9.1 above). For the avoidance of doubt, the 2.55% adjustment shall not be backed out of the Disposal Element in subsequent years.

9.4. With respect to Section 2 of the Omnibus Amendment to Waste Delivery Agreement and Franchised Hauler Agreement among the City, Recology and Republic Services of Sonoma County, Inc. (“Republic”), Recology confirms that the Republic-Recology agreement referred to in that section does not prevent Recology from establishing additional dedicated commercial food waste route(s) in the City. Therefore, if the compensation payable to Republic under the Republic-Recology agreement were to exceed the cost of a new dedicated commercial food waste route, the City and Recology could opt to create such a new route, thereby reducing or eliminating the amount of commercial food waste commingled with residential organics and the associated compensation to Republic.

10. Section 18988.1 and 18988.2 Compliance. Contractor hereby notifies City that Organic Waste collected pursuant to the Agreement is currently being delivered to the following facility(ies): Redwood Landfill and Recycling Center, Cold Creek Compost, Napa Recycling & Composting Facility, West Contra Costa Landfill Compost Facility (aka Golden Bear Transfer Station). City hereby approves delivery of Organic Waste to such facility(ies). Contractor shall comply with its obligations under this Amendment and the obligations that by operation of law are imposed upon it directly pursuant to Chapter 12 of the SB 1383 Regulations.

11. Future Changes. The parties acknowledge that future changes to this Amendment or the Agreement may be desirable to assist the parties with their respective compliance obligations under the SB 1383 Regulations or subsequent amendments thereto or interpretations thereof. The parties agree to negotiate any such proposed changes in good faith. The foregoing shall not be deemed to limit either party’s rights or remedies under the Agreement.

12. Miscellaneous. In the event of any conflict between this Amendment and the Agreement, this Amendment shall govern. Section titles and captions in this Amendment are for convenience of reference only and shall not affect the interpretation of this Amendment. This Amendment may be executed in counterparts and/or by electronic signature (e.g. DocuSign). As used in this Amendment, “including” and its variants mean “including without limitation.”

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IN WITNESS WHEREOF, this Amendment is entered into as of the date first written above.

City of Santa Rosa

Recology Sonoma Marin

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Salvatore M. Coniglio
Title: Chief Executive Officer
Date: _____

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Exhibit A

DEFINITIONS

“Container” means any Cart, Bin or Debris Box.

“Hauler Route” means the designated weekly itinerary or sequence of stops scheduled to be performed by one collection vehicle providing regularly scheduled Solid Waste, Recyclable Material or Organic Waste collection services (not on-call or Bulky Item/Abandoned Waste) within the Contractor’s collection service area under the Agreement.

“Organic Waste” means wastes comprising material originated from living organisms and their metabolic waste products, including food, green material, landscape and pruning waste, clean unpainted/untreated wood (with no nails, wire, etc.), paper products, and printing and writing paper, but excluding textiles and carpets, manure, biosolids, digestate, sludges, non-compostable paper, Construction & Demolition Debris, and Exempt Waste. No material shall be considered Organic Waste unless it has been segregated by the Service Recipient for separate collection. Organic Waste may not be more than three (3) feet in its longest dimension or six (6) inches in diameter and must fit in the Container utilized by the Service Recipient.

“Prohibited Container Contaminants” means any of the following:

- (a) Non-Organic Waste placed in the Green Container, including but not limited to textiles and carpets, manure, biosolids, digestate, sludges, non-compostable paper, Construction & Demolition Debris, and Hazardous Waste;
- (b) Organic Waste placed in the Gray Container that is specifically identified under the Agreement for collection in the Green Container or Blue Container;
- (c) Organic Waste placed in the Blue Container that is specifically identified under the Agreement for collection in the Green Container. Paper products and printing and writing paper may be considered acceptable and not considered Prohibited Container Contaminants if they are placed in the Blue Container.

“Route Review” means a visual inspection of Containers along a Hauler Route for the purpose of identifying Prohibited Container Contaminants, which may include mechanical inspection methods such as use of cameras.

“SB 1383 Regulations” means the Short-lived Climate Pollutants (SLCP): Organic Waste Reductions regulations adopted by the California Department of Resources Recycling and Recovery (“CalRecycle”) in 2020.

For purposes of this Amendment, the following terms (whether or not capitalized) shall have the meanings given to them in the SB 1383 Regulations, unless the context indicates a different meaning was intended: biosolids, digestate, food, non-compostable paper, paper products, printing and writing paper, sludges.