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## **BOARD OF DIRECTORS MEETING**

### **AGENDA**

**SEPTEMBER 26, 2024 – 3:00 P.M.**

Walnut Creek City Hall, 3<sup>rd</sup> Floor Conference Room  
(Use elevator by City Council Chambers)  
1666 North Main Street, Walnut Creek

**1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

**2. PUBLIC COMMENT ON ITEMS NOT ON THIS AGENDA**

Please fill out a speaker card and hand to the Board Secretary. The Chair will call on you and when addressing the Board, please state your name, company and/or address for the record. There is a three-minute limit to present your information. (The Board Chair may direct questions to any member of the audience as appropriate at any time during the meeting.)

**3. CONSENT ITEMS**

All items listed in the Consent Calendar may be acted upon in one motion. However, any item may be removed from the Consent Calendar by request by a member of the Board, public, or staff, and considered separately.

- a. Approve Minutes of the Regular Board Meeting on July 25, 2024\*
- b. Approve Minutes of the Special Board Meeting on August 29, 2024\*
- c. Approve the new Agreement Between the Central Contra Costa Solid Waste Authority and East Bay Municipal Utility District for Food Waste Processing and Recycling Services\*

**4. PRESENTATIONS**

- a. 2023-24 Annual Schools Program Report  
Ruth Abbe, School Contractor
- b. Base Rate Application for Rate Year 11\*  
David Krueger, Executive Director, RecycleSmart

## 5. **ACTION ITEMS**

### a. **Recommendations Regarding New Collection Franchise RFP\***

1. Approve the Ad Hoc Committee's recommendations to include the business points that are contained in Attachments A & B in the collection services Request for Proposals (RFP) and draft agreement; and
2. Authorize staff to continue sole source negotiations with Mount Diablo Resource Recovery (MDRR) for Reuse & Cleanup services, and do not include those services in the collection services RFP.

## 6. **INFORMATION ITEMS**

These reports are provided for information only. No Board action is required.

### a. **Executive Director's Monthly Report\***

### b. **Articles of Interest\***

### c. **Future Agenda Items\***

## 7. **BOARD COMMUNICATIONS AND ANNOUNCEMENTS**

## 8. **ADJOURNMENT**

*\*Corresponding Agenda Report or Attachment is included in this Board packet.*

### **ADDRESSING THE BOARD ON AN ITEM ON THE AGENDA**

Persons wishing to speak on PUBLIC HEARINGS and OTHER MATTERS listed on the agenda will be heard when the Chair calls for comments from the audience, except on public hearing items previously heard and closed to public comment. The Chair may specify the number of minutes each person will be permitted to speak based on the number of persons wishing to speak and the time available. After the public has commented, the item is closed to further public comment and brought to the Board for discussion and action. There is no further comment permitted from the audience unless invited by the Board.

### **ADDRESSING THE BOARD ON AN ITEM NOT ON THE AGENDA**

In accordance with State law, the Board is prohibited from discussing items not calendared on the agenda. For that reason, members of the public wishing to discuss or present a matter to the Board other than a matter which is on the Agenda are requested to present the matter in writing to the Secretary to the Authority at least one week prior to a regularly scheduled Board meeting date. If you are unable to do this, you may make an announcement to the Board of your concern under PUBLIC COMMENTS. Matters brought up which are not on the agenda may be referred to staff for action or calendared on a future agenda.

### **AMERICANS WITH DISABILITIES ACT**

In accordance with the Americans With Disabilities Act and California Law, it is the policy of the Central Contra Costa Solid Waste Authority to offer its public meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require special accommodations to participate, please contact the Board Secretary of the Authority at least 48 hours in advance of the meeting at (925) 906-1801.

**REGULAR BOARD MEETING OF THE  
CENTRAL CONTRA COSTA SOLID WASTE AUTHORITY  
HELD ON JULY 25, 2024**

The Regular Board Meeting of the Central Contra Costa Solid Waste Authority's (CCCSWA's) Board of Directors convened at Walnut Creek City Hall, 3<sup>rd</sup> Floor Conference Room, 1666 North Main Street, Walnut Creek, Contra Costa County, State of California, on July 25, 2024. Vice Chair Candace Andersen called the meeting to order at 3:00 P.M.

PRESENT: Board Members: Candace Andersen, Vice Chair  
Newell Arnerich  
Ken Carlson  
John McCormick  
Inga Miller \*  
Renee Morgan  
Cindy Silva

\* Off-site attendance:  
Smedserund 39  
Smedserund. Värmlands län 685 93, Sweden

ABSENT: Board Members: Gina Dawson, Chair  
Matt Francois  
Kerry Hillis  
Janet Riley  
Renata Sos

**Staff members present:** David Krueger, Executive Director; Janna McKay, Board Secretary; Judith Silver, Senior Program Manager; Ashley Louisiana, Senior Program Manager; Jennifer Faught, Contract Compliance Specialist; and Deborah L. Miller, CCCSWA Counsel.

**1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

Vice Chair Andersen led the Pledge of Allegiance.

**2. PUBLIC COMMENT ON ITEMS NOT ON THIS AGENDA**

KISH RAJAN, Chief Executive Officer (CEO) of Mt. Diablo Resource Recovery (MDRR) identified a number of new MDRR employees and RICHIE GRANZELLA, General Manager Post Collections; MIKE STARE, Director of Business Operations; ADOLFO GARCIA, MRF Operations Manager; and DANIEL ALLEN, Reuse Manager. They each introduced themselves to the Board.

Mr. Rajan stated MDRR was proud of its partnership with RecycleSmart and that the employees just introduced and their respective teams did an outstanding job for MDRR, a collective effort to maximize the performance of recycling in the region.

Mr. Rajan referred to the recyclables revenue sharing agreement between MDRR and RecycleSmart. He presented a check for \$875,768.62 to the RecycleSmart Board representing the last 12 months of the revenue share.

TRISH SUZUKI, Teamsters Joint Council 7, representing solid waste and recycling workers throughout Northern and Central California and Northern Nevada, appreciated the inclusion of the worker retention and labor peace language in the Post-Collection RFP and requested similar language in the Collection Services RFP that will be released in October. No matter what company chosen, she stated the desire was to ensure that workers were kept whole and the labor peace was actually enforced. She described the process throughout the region to sign Memorandums of Understanding (MOUs) with companies putting their bids in to ensure the appropriate treatment of workers, and appreciated any help in directing them to any companies being considered to encourage those companies to sign MOUs with them prior to a decision being made. She acknowledged the Board's frustration with service problems which had led to the contracts going out to bid, and asked and would continue to ask Republic Services to hire more drivers and get more vehicles on the road because the shortages impacted their members and how they worked.

DAVID RODRIQUEZ, Business Representative for Teamsters Local 315 currently representing over 150 local workers specifically in the solid waste area, emphasized the importance that the solid waste jobs remain union jobs. Faced with challenges in the past, including the pandemic, issues with some of the equipment and the necessary tools to do the job, he strongly encouraged the members of RecycleSmart to include worker retention language in the RFP and encompass successful language for union wages and labor provisions to ensure that ratepayers continued to receive excellent services.

### **3. CONSENT ITEM**

- a. Approve Minutes of the Regular Board Meeting on May 23, 2024

No written comments were submitted, or oral comments made, by any member of the public.

MOTION by Board Member Carlson to approve Consent Item a, as submitted. SECOND by Board Member McCormick.

MOTION PASSED unanimously by a Roll Call vote.

### **4. PRESENTATIONS**

- a. 2024 Legislation Update  
Jen Faught, RecycleSmart

Jen Faught, Contract Compliance Specialist, provided an update to the legislation that the Legislative Committee had been following this year. She reported that the Business Roundtable Initiative, "Taxpayer Protection and Government Accountability Act" had been pulled off the November ballot by the California Supreme Court. She added that there were a number of bills RecycleSmart had supported, supported in concept or watched that were still moving forward, which had all been marked as fiscal and which would all go to the appropriate appropriation committees.

The Legislature would come back into session on August 5, the proposed legislation would have until August 16 to get out of the appropriations committees, with September 30 the deadline for the Governor to sign any approved legislation into law.

Ms. Faught identified the bills that had RecycleSmart support that would move forward, such as SB 707, the extended producer responsibility (EPR) for textiles; SB 1280, all propane cylinders sold in California must be refillable, which would essentially ban propane cylinders from being sold in California; and SB 1384, the right to repair for powered wheelchairs. She highlighted the details behind each of those bills, particularly SB 707. She explained, when asked, that there was a descending scale of who to find responsible for used clothing and subject to the law.

Ms. Faught identified others moving forward as the companion bills SB 1053 and AB 2236, the prohibition of plastic film grocery bags; SB 2346, changes to organic waste produce procurement in SB 1383; and SB 972, CalRecycle to report on the status of compliance with organic waste reduction goals and provide for technical assistance to local jurisdictions. SB 972 had now been changed to have CalRecycle give a report on the status of compliance with SB 1383, and provide technical assistance to local jurisdictions, if requested.

Ms. Faught stated RecycleSmart had also supported AB 2311, to expand CalRecycle Greenhouse Gas Reduction Fund grants to include edible food recovery as eligible project type; AB 863, updates to carpet stewardship; and SB 1143, EPR for household hazardous waste. She stated there were certain programs now for specific HHW items such as batteries, and SB 1143 presented an opportunity to manage and pay for many HHW items that were not now included. Also still moving forward was SB 615, electric vehicle battery suppliers must ensure proper end of life handling of batteries.

Bills on RecycleSmart's watch list still moving forward were AB 660, standardized food labels, no "sell by" dates; and AB 2632, thrift retail stores must be treated the same as non-thrift retail in zoning, development standards, and permitting. She noted that the latter bill was sponsored by Savers, reported to be the largest for-profit thrift retail organization in the world, which wanted to be able to put their stores where other retail stores were located without friction from local government, and would require thrift retail stores to be treated the same as non-thrift retail stores selling the same or similar items with regards to zoning development standards and permitting.

Bills not moving forward that had RecycleSmart support were AB 817, authorize Brown Act subsidiary bodies to use alternative teleconferencing; and SB 537, expand "just cause" for remote participation under Brown Act, and authorize multijurisdictional agencies to use alternative teleconferencing provisions. Those bills not moving forward that had RecycleSmart support in concept were AB 2, recycling of solar panels; AB 1238, which could allow for easier recycling of solar panels in state; and AB 2762, manufacturers and distributors of beverages to increase sale of reusable containers.

Bills not moving forward that were on the RecycleSmart watch list were SB 1167, chain restaurants may not provide single-use drinkware for beverages consumed on site; AB 2577, food labeling standardization by CalRecycle; and SB 1426, the "Ridwell Bill," which would have made it easier for non-franchisees to provide services.

Board Member Silva referred to a compostable produce bag and asked if it was truly compostable, and there was a comment that if the “BPI” logo was shown on the bag it would be currently accepted in our compost program. She recommended that the compostable produce bags be promoted through the RecycleSmart newsletter.

## **5. INFORMATION ITEMS**

Reports provided for information only and no Board action required.

### **a. Executive Director’s Monthly Report**

Executive Director David Krueger introduced Program Manager Ashley Louisiana’s report on the Orinda Sustainability Camp held the week of July 8, 2024.

Ms. Louisiana described the first Sustainability Camp in partnership with the City of Orinda that had been planned over the last year, where about 30 kids had participated working with two local teachers with hands-on activities prioritizing food waste prevention, composting, recycling and proper sorting, and using reusables. There were two field trip days during the camp to Mt. Diablo Resource Recovery (MDRR) and Rogers Ranch Urban Farm in Pleasant Hill, where there had been a garden tour highlighting beehives, honey tasting and making lunch with vegetables from the garden. There had also been a reusables washing station in that few single-use materials were used during the week. She thanked Republic Services and MDRR, stated the Sustainability Camp had been well received and there was a hope to expand it to other member agencies.

Board Member Silva commended the program and asked about the cost to RecycleSmart to be able to know the cost of expanding the program to other areas, and Ms. Louisiana estimated the cost at about \$6,000 but suggested with time and experience the cost could be reduced potentially to \$5,000.

Board Member McCormick also supported the Sustainability Camp and expressed an interest to host a Sustainability Camp in Lafayette.

The Board supported the ability to prepare Sustainability Camps for each member agency and acknowledged the idea that the cost involved could likely be reduced over time.

Mr. Krueger explained that the annual report to CalRecycle would be due on August 1 and after his review it would be ready to go. He reported that there had been two facility tours set up related to procurement on July 31 and August 1, 2024, the same tour each day and those interested in participating should advise Janna McKay, Executive Assistant/Secretary to the Board

### **b. Future Agenda Items**

Mr. Krueger reported the Board normally did not meet in August. The next meeting agenda on September 26, 2024 would include the Schools Progress Report and the rate setting process. In October, the agenda would include the award of post-collection services, the issuance of the Collection Request for Proposal (RFP), the award of the Reuse and Clean-up Services Agreement, along with the Final Legislation Update.

6. **BOARD COMMUNICATIONS AND ANNOUNCEMENTS**

There were no Board communications or announcements.

7. **ADJOURNMENT**

The Board adjourned at 3:35 P.M. to the regular meeting scheduled for Thursday, September 26, 2024 at 3:00 P.M. in the Walnut Creek Offices at Walnut Creek City Hall.

Respectfully submitted by:

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Janna McKay, Executive Assistant/  
Secretary to the Board of the  
Central Contra Costa Solid Waste Authority,  
County of Contra Costa, State of California





**SPECIAL BOARD MEETING OF THE  
CENTRAL CONTRA COSTA SOLID WASTE AUTHORITY  
HELD ON AUGUST 29, 2024**

The Special Board Meeting of the Central Contra Costa Solid Waste Authority's (CCCSWA's) Board of Directors convened at Walnut Creek City Hall, 3<sup>rd</sup> Floor Conference Room, 1666 North Main Street, Walnut Creek, Contra Costa County, State of California, on August 29, 2024. Acting Chair Renee Morgan called the meeting to order at 2:00 P.M.

PRESENT: Board Members: Candace Andersen, Vice Chair\*\*  
Ken Carlson  
Matt Francois  
Kerry Hillis\*  
John McCormick  
Inga Miller \*\*  
Renee Morgan, Acting Chair  
Janet Riley  
Cindy Silva  
Renata Sos  
\*Arrived after Roll Call

\*\*Off-site attendance:  
Candace Andersen  
1516 Kamole Street  
Honolulu, Hawaii 96821  
  
Inga Miller  
3565 Needles Way  
Sevierville, TN 37876

ABSENT: Board Members: Newell Arnerich  
Gina Dawson, Chair

**Staff members present:** David Krueger, Executive Director; Janna McKay, Board Secretary; Judith Silver, Senior Program Manager; Jennifer Faught, Contract Compliance Specialist; and Deborah L. Miller, CCCSWA Counsel.

**1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

Jim Nejedly led the Pledge of Allegiance.

**2. PUBLIC COMMENT ON ITEMS NOT ON THIS AGENDA**

No written comments were submitted, or oral comments made, by any member of the public.

### 3. ACTION ITEMS

#### 1. Approval of Option to Ground Lease

Approve Option to Ground Lease all or a portion of real property in unincorporated Contra Costa County (APN 380-030-044-8), commonly referred to as the South Parcel; Amend the FY 2024-2025 Operations Fund Budget to increase New Franchise Development by \$10,000; and Determine that the Option to Ground Lease is not subject to the California Environmental Quality Act (CEQA) under Section 15004(b)(2)(A) (Land Acquisition Contingent on Future CEQA Compliance) and 15061(b)(3) (Common Sense Exemption), and is exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Class 1) (Existing Facilities).

Board Member Sos reported the special meeting had been scheduled to take advantage of a time-sensitive opportunity that the Ad Hoc Franchise Design Committee believed would benefit the franchise procurement process, rate payers and the agency to procure the best level of service at the best price for ratepayers. She identified the opportunity to enter into a lease option for a nearby property uniquely suited for a truck yard, and stated the Ad Hoc Committee had reviewed a number of potential sites.

Board Member Sos stated the Ad Hoc Committee believed that if the agency offered a truck yard to prospective proposers, more companies would have the ability to credibly bid on the upcoming Collection Services RFP. Given that the agency was acutely aware of the service issues that had occurred some months ago, by allowing more proposers to participate in the process would hopefully allow the agency a better chance of securing a franchisee that would provide a level of service at a competitive price ratepayers deserved. She added that since time was of the essence, the Ad Hoc Committee asked the full Board to carefully consider and approve the proposal.

Executive Director David Krueger stated one of the ways to get the best prices was to increase competition and that a local truck yard would help do that. If the truck yard was ultimately not used by the selected proposer, the lease option could be left unused and the lease would not be paid, although there would be a \$40,000 cost to secure the lease for 15 months during the RFP process. Of the potential truck yard sites reviewed, the recommended site is so close to the Martinez Transfer Station near the old Acme Fill (one of the three parcels that made up the Acme property), and the owner had allowed the agency to lease any part of the parcel desired at the same price.

Mr. Krueger explained that the line item in the budget for a site search would have to be increased by \$10,000 to be able to accommodate the \$40,000 to secure the lease. He stated the act of reserving the lease option was exempt from CEQA but if leasing the property and developing it with a hauler, CEQA would have to be done before signing a lease. The terms of the lease would be to lease 12 acres for a 15-year term with the potential for extensions, the rent would be \$2,500 per acre per month and the rent would increase each year by the Consumer Price Index (CPI).

Board Member Sos identified the factors considered by the Ad Hoc Committee when making its decision to support the subject property related to current use and avoiding potential clean-up issues. She noted the site was 55 acres in size and the agency had the flexibility to site the truck yard in the best way to avoid sensitive issues and adjoining uses.

Board Member Miller supported the idea but questioned whether there would be any concern allowing those involved with the procurement the authority to make non-substantive changes to the agreement to move the item forward without delay.

Deborah. Miller, CCCSWA Counsel, affirmed that the agency could designate someone to make non-substantive changes to the agreement.

Board Member McCormick asked about improvements that might have to be made to the property and how the cost of the lease would be handled with the successful franchisee.

Mr. Krueger responded to questions and explained that either the landlord, the hauler, or the Authority could develop the site. Given that the landlord was not interested in doing that, he suggested the best way would be to have the hauler develop the site. How the hauler would be charged had yet to be determined, although several potential options were identified. As to whether the lease could be synched with the length of the franchise agreement, and if not, whether the agency could be at risk of the cost of the lease, he stated the contract would be for 10 or 15 years, staff was leaning towards 15 years, and the lease could be extended as needed.

As to whether this process had occurred elsewhere, Mr. Krueger stated that HF&H Consultants had done it with a JPA in Monterey. The yard could be used for storing and maintaining the trucks and containers, possible painting of each, and fuel storage. The recommended Martinez site is situated adjacent to a closed landfill that was still accepting some inert material. The zoning was appropriate but the proposal might change the conditional use permit for the site. Access through an easement had yet to be confirmed, although if that did not occur, the funds to secure the lease would be returned.

Board Member Sos thanked Mr. Nejedly for his efforts throughout the process.

Mr. Nejedly stated that other feasible sites had been reviewed and the subject site was well set up for the needs of an operator. He confirmed that 12 acres would be appropriate to provide the needed separation for the different types of fuel involved. As to other kinds of improvements that might be needed, he explained that the site was currently bare dirt and all the infrastructure would be needed but everything needed was close by.

No written comments were submitted, or oral comments made, by any member of the public.

MOTION by Board Member Carlson to approve Option to Ground Lease all or a portion of real property in unincorporated Contra Costa County (APN 380-030-044-8), commonly referred to as the South Parcel; Amend the FY 2024-2025 Operations Fund Budget to increase New Franchise Development by \$10,000; and Determine that the Option to Ground Lease is not subject to the California Environmental Quality Act (CEQA) under Section 15004(b)(2)(A) (Land Acquisition Contingent on Future CEQA Compliance) and 15061(b)(3) (Common Sense Exemption), and is exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Class 1) (Existing Facilities), subject to the designation of someone to make non-substantive changes to the agreement, if required.

SECOND by Board Member Silva.

MOTION PASSED unanimously by a Roll Call vote.

**4. BOARD COMMUNICATIONS AND ANNOUNCEMENTS**

There were no Board communications or announcements.

**5. ADJOURNMENT**

The Board adjourned at 2:30 P.M. to the regular meeting scheduled for Thursday, September 26, 2024 at 3:00 P.M. in the Walnut Creek Offices at Walnut Creek City Hall.

Respectfully submitted by:

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Janna McKay, Executive Assistant/  
Secretary to the Board of the  
Central Contra Costa Solid Waste Authority,  
County of Contra Costa, State of California

# Agenda Report

**TO:** CCCSWA BOARD OF DIRECTORS

**FROM:** DAVID KRUEGER, EXECUTIVE DIRECTOR  
JUDITH SILVER, SENIOR PROGRAM MANAGER

**DATE:** SEPTEMBER 26, 2024

**SUBJECT: AGREEMENT WITH EBMUD FOR ANAEROBIC DIGESTION OF  
COMMERCIAL FOOD SCRAPS**

## SUMMARY

Since 2009, a program to separately collect and process commercial food scraps for digestion at EBMUD's treatment plant has been operating successfully. The current agreement with EBMUD is set to expire in March 2025, and the new proposed agreement term would be from March 1, 2025 through June 30, 2030. The proposed agreement is attached as **Attachment A**.

## RECOMMENDED ACTION

1. Approve the new Agreement Between the Central Contra Costa Solid Waste Authority and East Bay Municipal Utility District for Food Waste Processing and Recycling Services (Attachment A).

## DISCUSSION

### Background

The EBMUD anaerobic digestion (AD) process provides a unique opportunity for the Authority to continue to divert source separated commercial food scraps at an established local facility, providing waste diversion, greenhouse gas reduction, and renewable green energy. The AD process both "recycles" the food scraps into a compost-like soil amendment (biosolids), and creates methane gas, which is captured and burned to produce energy. Some of that energy is used to power EBMUD's wastewater treatment plant, and some is sold to the Port of Oakland.



The "Food Recycling Project" as the program was branded in 2010, received the 2011 Recycling Systems Excellence Award from the Solid Waste Association of North America and has been the subject of numerous trade magazine articles.

The number of participating businesses in this unique program has grown from 44 in 2010 to over 750 in 2024 thanks to the dedication of Republic Services’ Sustainability Coordinators who have diligently continued to recruit new participants. A wide variety of food generating business types participate in the program including restaurants, hotels, assisted living facilities, schools, and grocery stores. **Table One** below shows the current number of participating businesses by member agency. **Table Two** shows the annual tons of commercial food scraps collected between 2016 and 2023.

**Table One**

<b>Member Agency</b>	<b>Number of Businesses</b>
City of Lafayette	91
City of Orinda	54
City of Walnut Creek	359
County	74
Town of Danville	131
Town of Moraga	48
<b>Total</b>	<b>757</b>

**Table Two**

<b>Year</b>	<b>Collected Food Scraps Tons</b>
2016	4,521
2017	5,349
2018	5,397
2019	5,512
2020	3,474
2021	4,702
2022	4,384
2023	4,904

The Authority operates two commercial organics diversion programs:

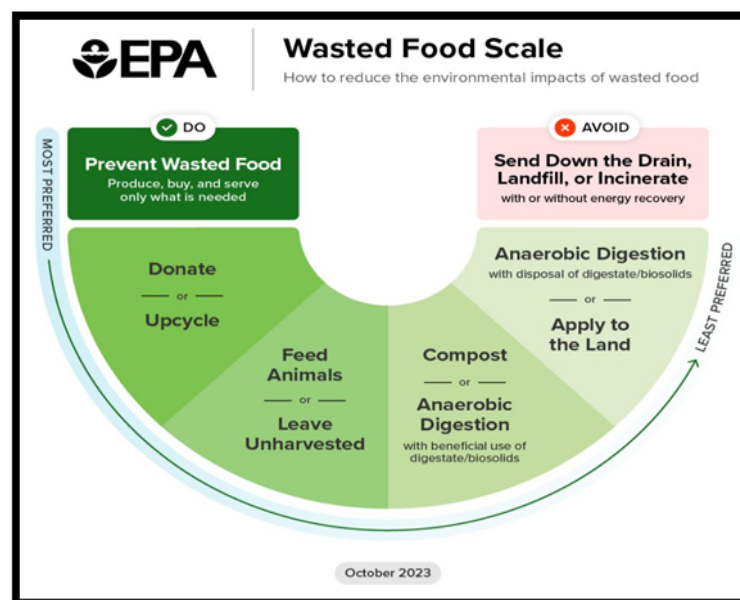
- The Food Recycling Project serves restaurants and other high-volume food scraps generators in the Authority’s service area. This program only accepts food scraps, paper towels, and napkins. Source separated food scraps are collected on a separate route five days a week and brought to Republic Services’ transfer station in unincorporated Martinez for preprocessing. The food is passed through a Scott Turbo Separator depackager, also known as the “Thor.” The Thor recovers most organics while removing unacceptable materials (plastics and other packaging waste) except for de minimis quantities that do not disrupt EBMUD’s operations. The pre-processing also reduces the size of the food waste to two-inch minus. This food “slurry” is then transferred into a watertight trailer and shipped to EBMUD’s facility in Oakland. Originally, Republic Services employed a “tub grinder” to reduce the particle size prior to delivery to EBMUD, but the quality of the slurry was frequently not high enough for EBMUD’s sensitive system. With the introduction of the Thor in 2020, both particle size and contamination have been greatly reduced. The EBMUD

AD facility was originally designed to process cannery waste, but now it has excess capacity to process food scraps in addition to other types of organic waste that are trucked to the facility. The facility is in West Oakland, a short distance from the service area.

- The “Commingled Organics” program serves other commercial accounts. This program accepts mixed yard trimmings, food scraps and food-soiled paper, just like the residential organics program. The collected commercial organics are brought to Republic Services’ transfer station where they are combined with residential organics and transferred to Republic Services’ Forward Compost Facility outside of Manteca to be made into compost which is sold to farms, orchards, and landscapers.

At the close of 2023, there were 3,019 commercial businesses in the Authority’s service area. Of these, 753 are on the Food Recycling Project and 966 are on the Commingled Organics program. A small number of accounts subscribe to both programs. The total number of tons sent to EBMUD each year is relatively small compared to the tons sent to the compost facility each year. In 2023, 4,904 tons were collected by the Food Recycling Project and 68,000 tons were collected by the Commingled Organics Program (commercial + residential).

Staff conducted a literature review to understand which process, AD or composting, has the greatest environmental benefit. Both diversion methods have merit and are clearly better than organics decomposing in a landfill<sup>1</sup>. The 2023 EPA Wasted Food Scale, see **Figure One**, puts composting and AD on par with one another. Staff also employed the Waste Reduction Model (WARM) tool created by the EPA to help solid waste planners calculate greenhouse gas emissions associated with different waste management options. Comparing the two processing technologies, ton by ton, there is a negligible difference between the two.



Staff investigated the possibility of eliminating the Food Recycling Project, moving all those customers to the Commingled Organics program, and composting the food scraps instead of digesting

<sup>1</sup>The 2023 EPA report entitled, “From Field to Bin: The Environmental Impacts of U.S. Food Waste Management Pathways” reports that 61% of fugitive methane emissions from landfills come from food.

them. The potential advantages of this approach would be simplified public education, greater diversion of commercial yard trimmings and food-soiled paper, and more efficient collection routes.

However, staff discovered that there would likely be no increase in routing efficiency from combining our two organics programs. Many other jurisdictions that compost all their organics still collect restaurant and other food-rich commercial customers separately from other organics customers because the food-rich commercial organic material tends to contain more liquid and contaminants and is more difficult and expensive to preprocess and compost than other organics. Keeping the food-rich commercial organics separate allows for more cost-effective composting of the other organics.

In addition, if the current Food Recycling Project food scraps were co-collected with Commingled Organics, the participants could no longer contain their food scraps in clear plastic bags. Clear plastic bags are important to restaurants and other Food Recycling Project participants, who use them to line interior kitchen containers. The plastic bags reduce the “ick” factor and facilitate the transfer of food scraps from the kitchen to the outside enclosure. The use of clear plastic bags increases participation in the program and diversion of food scraps. Plastic liners are relatively inexpensive, and they are removed, along with other contaminants, by the Thor prior to delivery to EBMUD. Plastic liners are prohibited in the Commingled Organics program because this material is not preprocessed by the Thor prior to being composted.

Staff decided to recommend continuing with two separate commercial organics programs (Food Recycling Project and Commingled Organics) because combining them would not improve collection efficiency and would likely decrease food scrap diversion due to the inability of Food Recycling Project customers to continue to use clear plastic bags.

#### Proposed Contract Changes

Staff has been negotiating with EBMUD to renew and update our agreement. Below is a description of the most significant proposed changes:

**Tip Fee (Section 7.02).** The current tip fee at EBMUD is \$57.38 per ton. The price per ton has increased over time from the original tip fee of \$45/ton in 2014 based on a CPI escalator. The proposed tip fee is \$85 per ton. While higher, this number is a more accurate reflection of the cost of absorbing the food waste slurry into the EBMUD AD operation. EBMUD staff have expressed that the program has been operating at a loss for several years. Staff benchmarked EBMUD’s proposed cost of \$85 per ton against the cost to use another AD facility recently purchased by Republic and against the cost proposals to compost commercial food scraps obtained through the post collection RFP and found \$85 per ton to be reasonable.

**Pomace and Residual of Digested Food Waste (Section 6.04), Records and Rports (Section 6.05 (e) and Renewable Energy Credit (Appendix B).** Staff has endeavored to simplify the mechanics of the financial arrangement between the Authority and EBMUD. This has been achieved in three ways:

- ✓ Currently, Republic Services pays EBMUD for digesting the food waste slurry and the cost is passed back to the Authority through the annual rate process. In the proposed new contract, EBMUD would invoice the Authority directly.
- ✓ Currently, EBMUD generates invoices to Republic Services for the cost to dispose of pomace, a residual “grit” that results from the AD process. In the proposed new contract, this cost is



included in the \$85 per ton tip fee.

- ✓ Currently, the Authority shares in the value of the Renewable Energy Credit revenue from the sale of energy generated by the Authority's food waste. Since 2014, the Authority has received \$4,833 in revenue from this source. In the proposed new contract, this revenue will be retained entirely by EMBUD. This partial off-setting revenue was also factored into the \$85 per ton tip fee.

**SB 1383 Procurement Eligible Product (Section 7.03).** EBMUD has been graciously providing a SB 1383 procurement credit to the Authority's members for the renewable energy generated by food waste since 2022. Section 7.03 describes this arrangement. EBMUD provides the Authority with an annual certification (See **Attachment B** for the 2023 Certification Form) that the renewable energy derived from the food waste and used to power the EBMUD facility serves to assist the member agencies achieve a portion of their recycled organic product procurement obligations (in the form of renewable natural gas) under SB 1383. The total amount of eligible energy is apportioned to each member agency based on the number of Food Recycling Project participants from each member agency.

**Change in Nutrient Limits Under NPDES permit (Section 11.01(b)(4)).** EBMUD and some other Bay Area wastewater treatment plants discharge treated wastewater into the San Francisco Bay. The quality of the discharged wastewater is regulated by EBMUD's National Pollutant Discharge Elimination System (NPDES) permit. Nutrients discharged into the Bay from wastewater treatment plants can contribute to algae blooms. The wastewater treatment plants' NPDES permits are being modified over time to lower nutrient discharge limits. Should EBMUD determine that nutrients associated with accepting the Authority's food scraps materially impact EBMUD's ability to comply with its permit, it may limit our deliveries or terminate the contract. EBMUD staff does not anticipate this happening between now and 2030.

**Biosolids Reopener (Section 7.05).** This is a new Section added at the request of EBMUD to address the rising cost of diverting biosolids. "Biosolids" are the solid residual from the food scraps after they have been digested. Biosolids are also produced by EBMUD's wastewater treatment process. EBMUD pays to ship the biosolids to composting facilities or directly to farmland where the biosolids are used as a soil amendment. EBMUD's current cost to divert biosolids is \$75 per ton, which reflects a 36% increase over the last two years. The price has risen as wastewater plants in the region have stopped disposing of their biosolids as Alternative Daily Cover (ADC) at landfills and have switched to composting and land application. Should the price rise to over \$100 per wet ton, EBMUD reserves the right to renegotiate the tip fee.

## ATTACHMENTS

- A. Agreement Between the Central Contra Costa Solid Waste Authority and East Bay Municipal Utility District for Food Waste Processing and Recycling Services
- B. EBMUD's 2023 SB 1383 Recycled Organic Waste Procurement Certification Form



**AGREEMENT BETWEEN  
THE CENTRAL CONTRA COSTA SOLID WASTE  
AUTHORITY AND  
EAST BAY MUNICIPAL UTILITY DISTRICT**

**FOR  
FOOD WASTE PROCESSING AND RECYCLING  
SERVICES**

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## **AGREEMENT FOR FOOD WASTE PROCESSING AND RECYCLING SERVICES**

This Agreement for Food Waste Processing and Disposal Services (“Agreement”) is entered into and executed as of this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the Central Contra Costa Solid Waste Authority (“CCCSWA”), a joint powers authority, and East Bay Municipal Utility District (“District”), a public agency formed under the California Municipal Utility District Act (together referred to as the “Parties”).

### **RECITALS**

WHEREAS, the State of California (“State”), through enactment of the California Integrated Waste Management Act of 1989, has directed all local agencies to promote recycling and to maximize the use of feasible source reduction, recycling and composting options in order to reduce the amount of municipal solid waste that must be disposed of by landfill; and

WHEREAS, organic food waste is one of the largest components of landfilled material; and

WHEREAS, the District is a municipal utility district whose service area includes all or part of the cities of Danville, Lafayette, Moraga, Orinda, Walnut Creek, and portions of unincorporated Contra Costa County; and

WHEREAS, the District currently operates a wastewater treatment plant (“Facility”) in Oakland, California, which has the capability to decompose organic food waste through anaerobic digestion; and

WHEREAS, the digestion of the organic food waste both diverts the food waste from landfills and captures methane gas that would otherwise be released into the atmosphere, and

WHEREAS, the District collects the methane gas and uses it as a renewable energy source at its on-site power generation station to generate energy that may be used to power the treatment plant or to create excess energy that can be sold to other entities or back to the grid; and

WHEREAS, CCCSWA is a joint powers authority whose service area includes the cities of Danville, Lafayette, Moraga, Orinda, Walnut Creek, and portions of unincorporated Contra Costa County; and

WHEREAS, since 2010 the Parties have contracted for food waste processing and recycling services wherein CCCSWA arranges for the delivery of food waste from portions of its jurisdiction to be processed by the District through anaerobic digestion at the District’s Facility and CCCSWA pays the District a fee for this service; the most recent agreement between the Parties commenced effective March 1, 2015 and expires February 28, 2025 (“2015 Agreement”); and

WHEREAS, in 2019 the District and Allied Waste Systems, Inc. (“Republic”) entered the Organic Material Preprocessing and Feedstock Digestion Agreement, describing, among other things, Republic’s agreement to purchase and install certain preprocessing equipment at its

Martinez Transfer Station to reduce food waste size and remove contamination from CCCSWA feedstock delivered to the District under the 2015 Agreement, the District's agreement to accept certain feedstock from Republic, and the District's agreement to apply a certain credit to the fee the District charges under the 2015 Agreement for Processing to reimburse for the cost associated with preprocessing ("2019 Agreement"); and

WHEREAS, as a result of these arrangements, organic food waste that might otherwise be landfilled is diverted and recycled, which aids CCCSWA in preserving available landfill space and postponing the need for new landfill capacity for the longest possible term, and converts methane resulting from waste generated in the jurisdiction into a usable product; and

WHEREAS, Senate Bill 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, and its implementing regulations (together, "SB 1383") require cities and counties to annually procure a certain quantity of recovered organic waste products. Cities and counties can comply with this requirement through, among other things, a written agreement with a direct service provider that procures recovered organic waste products and provides written documentation of such procurement. Eligible recovered organic waste products include, among other things, renewable gas used for fuel for electricity. Renewable gas procured from a publicly owned treatment works ("POTW") must satisfy certain conditions to qualify toward the procurement obligation. Cities and counties must annually document their procurements, including through annual written certification from the POTW regarding certain facts; and

WHEREAS, CCCSWA believes that the electricity generated by the food waste it delivers to the District and that is used to power the District's plant would qualify as an eligible procurement product under SB 1383 for CCCSWA's member agencies. CCCSWA has requested that the District allocate this procurement eligible product to CCCSWA and its members agencies. CCCSWA has requested that the District assist with this effort by delivery of certain records required under SB 1383; and

WHEREAS, the District wishes to, and the District's Facility has the capacity to, continue accepting commercially-generated food waste delivered to it by CCCSWA; and

WHEREAS, the Parties wish to update their 2015 Agreement to reflect the new contract period, pricing, the 2019 Agreement, documentation required under SB 1383, and other matters; and to adopt the new Agreement as so updated; and

WHEREAS, the Parties agree to cooperate in good faith and in an adaptive management style to implement or amend this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, guarantees and conditions contained in this Agreement and for other goods and valuable consideration, CCCSWA and the District agree as follows:

## **ARTICLE 1. DEFINITIONS**

**Accept** (or **Acceptance** or other variations thereof) is the transfer of ownership of materials to the District from the Person Delivering the materials.

**Agreement** means this Agreement, including all Exhibits and attachments that are incorporated herein by reference. This Agreement may be amended and supplemented pursuant to Section 12.06.

**Applicable Law** means all statutes, rules, regulations, Permits, orders, or requirements of the United States, State, County, CCCSWA and local government authorities and agencies having applicable jurisdiction, that apply to or govern the Facility, the Site or the performance of the Parties' respective obligations hereunder in effect as of the execution date and as amended and/or enacted hereinafter.

**Change in Law** means the occurrence of any event or change in Applicable Law as follows:

(1) the adoption, promulgation, amendment, modification, rescission, revision or revocation of any Applicable Law or change in judicial or administrative interpretation thereof occurring after the execution date hereof; or

(2) any order or judgment of any Federal, State or local court, administrative agency or governmental body issued after the execution date hereof if:

(i) such order or judgment is not also the result of the willful misconduct or negligent action or inaction of the Party relying thereon or of any third party for whom the Party relying thereon is directly responsible; and

(ii) the Party relying thereon, unless excused in writing from so doing by the other Party, shall make or have made, or shall cause or have caused to be made, Reasonable Business Efforts in good faith to contest such order or judgment (it being understood that the contesting in good faith of such an order or judgment shall not constitute or be construed as a willful misconduct or negligent action of such Party); or

(3) the imposition by a governmental authority or agency of any new or different material conditions in connection with the issuance, renewal, or modification of any Permit after the execution date; or

(4) the failure of a governmental authority or agency to issue, or the suspension or termination of, any Permit after the Execution Date hereof.

**Commercial Food Waste Generator** means those restaurants, assisted living facilities, grocery stores, schools, hospitals, fast food restaurants, and any other business or institutional facility that has food service participating in CCCSWA's Food Waste processing recycling program.

**Contract Year** means from July 1 of one year to June 30 of the following year, except for the first year, which is March 1, 2025-June 30, 2026.

**Delivery (Deliver or Delivered** or other variations thereof) means arrival of Franchised Hauler at the Site entrance during Facility Receiving Hours for the purposes of Acceptance.

**Facility** means the District's main wastewater treatment plant located at 2020 Wake Avenue, Oakland, California.



**Facility Receiving Hours** are hours when the District must Accept Feedstock at the Facility as defined in Section 6.03.

**Feedstock** is Food Waste that, before Delivery to the District, is made acceptable for Processing in accordance with Article 5. Feedstock is ground into pieces approximately two (2) inches square in size or smaller, via the cleaning/grinding process discussed in Section 5.01(a), and is free from Unacceptable Materials.

**Food Waste** means source-separated food materials collected from Commercial Food Waste Generators within CCCSWA's jurisdictional boundaries. Food Waste includes fruits, vegetables, meat, seafood, small bones, dairy, eggs, breads, pastas, sauces, cooking oil, grease, tea, coffee grounds, other related food waste materials, and Paper.

(Note: To support the goals of increased diversion and maintenance of Food Waste quality, the District may from time to time broaden the definition of Food Waste by mutual written agreement, using additional specifications and subject to testing, acceptance criteria, material definitions, various technical parameters, and limits to be determined. The District will also periodically review materials that are included in the definition of Paper. The District may evaluate materials proposed for inclusion in the definition of Food Waste for digestibility, compatibility with the District's treatment processes, and suitability for processing into acceptable Feedstock.)

**Force Majeure** events include but are not limited to floods, earthquakes, other extraordinary acts of nature, war or insurrection, riots, or other similar catastrophic events, not caused or maintained by the Party seeking relief, which event is not reasonably within the ability of that Party to intervene in or control, to the extent that such event has a material adverse effect on the ability of that Party to perform its obligations. No event, the effects of which could have been prevented by reasonable precautions, including compliance with Applicable Laws, shall be a Force Majeure. No failure of performance by any subcontractor of the District or CCCSWA's Franchised Hauler shall be a Force Majeure event unless such failure is itself caused by a Force Majeure event as to the subcontractor or Franchised Hauler.

**Franchised Hauler** means CCCSWA's franchised solid waste collector, currently Republic Services, Inc., or its successor provided Notice is given.

**Hazardous Waste** means materials that are hazardous, including:

(1) "Hazardous Waste" pursuant to Section 40141 of the California Public Resources Code; all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by Sections 25110.02, 25115, and 25117 of the California Health and Safety Code (the California Hazardous Waste Control Act), California Health and Safety Code Section 25100 *et seq.*, and future amendments to or recodification of such statutes or regulations promulgated thereunder, including 23 California Code of Regulations Sections 2521 and 2522; and

(2) materials regulated under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*, as amended (including, but not limited to, amendments thereto made by the Solid Waste Disposal Act Amendments of 1980), and related Federal, State and local laws and regulations; and

(3) materials regulated under the Toxic Substances Control Act, 15 U.S.C. Section 2601 *et seq.*, as amended, and related Federal, State of California, and local laws and regulations, including the California Toxic Substances Account Act, California Health and Safety Code Section 25300 *et seq.*; and

(4) materials regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601, *et seq.*, as amended, and regulations promulgated thereunder; and

(5) materials regulated under any future additional or substitute Federal, State or local laws and regulations pertaining to the identification, transportation, treatment, storage or disposal of ignitable, reactive, toxic, or corrosive substances or materials; with the exception that Hazardous Waste, for the purpose of this Agreement, shall specifically exclude Household Hazardous Waste.

If two or more governmental agencies having concurrent or overlapping jurisdiction over Hazardous Waste adopt conflicting definitions of “Hazardous Waste,” for purposes of collection, transportation, Processing and/or disposal, each substance or material defined as Hazardous Waste by any agency with jurisdiction to affect the performance of this Agreement shall be treated as Hazardous Waste for purposes of this Agreement.

**Holidays** are defined as New Year’s Day and Christmas Day or any day that either Party does not operate. Each Party shall provide the other with an annual holiday schedule indicating non-working holidays by September 1<sup>st</sup> of each year.

**Household Hazardous Waste** are those wastes resulting from products used by the general public for household purposes which, because of their quantity, concentration, or physical or chemical characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed.

**Labor Action** means labor unrest, including strike, work stoppage, slowdown, sick-out, picketing and any other concerted job action.

**Notice** (or **Notify** or other variation thereof) means written Notice given by one Party to the other Party in relation to the execution of the various obligations of both Parties under this Agreement.

**Paper** means source-separated paper products acceptable for Processing that are collected from Commercial Food Waste Generators within CCCSWA’s jurisdictional boundaries. Paper includes: tissue paper, paper napkins, paper towels, tea bags, coffee filters, and other paper products that may be included subject to mutual written agreement. Paper is a component of Food Waste. Paper, as defined in this Agreement, excludes paper that is accepted in CCCSWA’s recycling system, including but not limited to the following unsoiled (i.e., non-contact with wet, oily or sticky food) items: newspapers, magazines, catalogs, office paper, mail, cardboard, books, detergent boxes, egg cartons, paper bags, paperboard boxes, shredded paper, and telephone directories.

**Permit** means any or all Federal, State and local statutory or regulatory approvals, or other measures or mechanisms necessary from any third party for either Party to be in full legal compliance in the performance of all their obligations, as renewed or amended from time to time.

**Person** includes any individual, firm, association, organization, partnership, corporation, trust, joint venture, the United States, the State, a county, a municipality or special district or any other entity whatsoever.

**Pomace** means material rejected by the District's paddle finisher after Acceptance and Processing of Feedstock, but prior to digestion, that requires disposal.

**Process** (or **Processing** or any other variation thereof) means the handling, digestion and beneficial use, recycling, and/or disposal of Feedstock and Pomace and Residual of Digested Food Wastes by the District at the Facility after Acceptance.

**Reasonable Business Efforts** means those efforts a reasonably prudent business Person would expend under the same or similar circumstances in the exercise of such Person's business judgment, intending in good faith to take steps calculated to satisfy the obligation that such Person has undertaken to satisfy.

**Residual of Digested Food Waste** means material remaining after digestion and dewatering of Feedstock that requires some form of recycling or disposal.

**Site** means the parcel(s) of land on which the Facility is situated.

**Ton** means a unit of measure for weight equivalent to two thousand (2,000) standard pounds (where each pound contains sixteen (16) ounces).

**Transfer Station** means the location at which the Food Waste is ground before it is transported to the Facility.

**Unacceptable Material(s)** means materials other than Food Waste. Unacceptable Material is considered "contamination" and includes plastic, polystyrene, glass, metal, paper products not included in the above definition of Paper (such as cardboard), wood, yard waste, straps, ropes, cords, wires, latex, Hazardous Waste, Household Hazardous Waste, or any other material in quantities that would impact the District's ability to Process Feedstock or meet regulatory compliance. Plastic bags that are not clear are Unacceptable Materials. *De minimis* quantities of these wastes, except for Hazardous Waste and Household Hazardous Waste, which under typical operating circumstances would not disrupt District operations, are acceptable.

**Uncontrollable Circumstance(s)** means any act, event, or condition outside either Party's control and not the result of willful or negligent action or inaction on the part of such Party, whether affecting the Facility or either Party, which materially and adversely affects the ability of either Party to perform any of its obligations under this Agreement, including:

(1) The failure of any appropriate Federal, State, or local public agency or private utility having operational jurisdiction in the area in which the Facility is located, to provide and maintain utilities, services, water, sewer or power transmission lines to the Facility which are required for Facility operation; or

(2) A Change in Law; or

(3) The suspension or interruption of either Party's operations as a result of any release, spill, power outage, contamination, migration or presence of any Hazardous Waste, petroleum and petroleum products or as a result of any release, spill, contamination of toxic materials where the Party is not potentially liable for the release, spill or contamination, nor a potentially responsible party. The suspension of operations due to a release, spill or contamination where the Party's liability for the release, spill or contamination arises solely from Party's status as the operator of the Facility or owner of the property will be considered an Uncontrollable Circumstance; or

(4) A process upset to the sanitary treatment plant system due to a toxic load or similar event not related to Feedstock Processing and that prevents the use of the digesters; or

(5) A Force Majeure event that temporarily or permanently interrupts Facility operations.

The following are excluded from Uncontrollable Circumstances, without limitation, unless caused by an Uncontrollable Circumstance listed above:

(1) Adverse changes in the financial condition of either Party or any Change in Law with respect to any taxes based on or measured by net income, or any unincorporated business, payroll, franchise or employment taxes; and

(2) The consequences of errors on the part of either Party, its employees, agents, subcontractors or affiliates, including errors in plans and specifications that should reasonably have been identified; and

(3) The failure of either Party to secure patents, technical licenses, trademarks, and the like necessary for Delivery and Processing of Food Waste; and

(4) The lack of fitness for use, or the failure to comply with the plans and specifications of any materials, equipment or parts constituting any portion of the Facility; and

(5) Labor Actions of the District's employees or subcontractors including, but not limited to, strikes, lockouts, and industrial disturbances.

## **ARTICLE 2. REPRESENTATIONS AND WARRANTIES**

**2.01 Of the District.** The District represents and warrants as of the date hereof:

**a. Status.** The District is a publicly owned utility formed under the California Municipal Utility District Act.

**b. Authority and Authorization.** The District has full legal right, power and authority to execute and deliver this Agreement and perform the District's obligations hereunder. This Agreement may be duly executed and delivered by the District and, once so executed and delivered, constitutes a legal, valid and binding obligation of the District enforceable against the District in accordance with its terms. The District has complied with Applicable Law in entering into this Agreement.

**c. No Conflicts.** The execution or delivery by the District of this Agreement, the performance by the District of the District's obligations, and the fulfillment by the District of the terms and conditions of this Agreement does not knowingly (1) conflict with, violate or result in a breach of any Applicable Law; or (2) conflict with, violate or result in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which the District is a Party or by which the District or any of its properties or assets are bound, or constitute a default thereunder.

**d. No Approvals.** The District warrants that all legally required licenses, Permits, qualifications and approvals of whatsoever nature will be secured for the District to provide services hereunder and meet the District's obligations, and the District further warrants that it shall, at its sole cost and expense, keep in effect or obtain at all times during the Term all licenses, Permits, and approvals which are legally required for the District to provide such services and meet the District's obligations.

**e. No Litigation.** There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of the District's knowledge, threatened, against the District wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by the District of the District's obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity of, or the ability to enforce this Agreement or any other agreement or instrument entered into by the District in connection with the transactions contemplated hereby.

## **2.02 Of CCCSWA.** CCCSWA represents and warrants as of the date hereof:

**a. Status.** CCCSWA is a joint powers authority, duly organized and validly existing under the laws of the State.

**b. Authority and Authorization.** CCCSWA has full legal right, power and authority to execute and deliver this Agreement and perform CCCSWA's obligations hereunder. This Agreement may be duly executed and delivered by CCCSWA and, once so executed and delivered, constitutes a legal, valid and binding obligation of CCCSWA enforceable against CCCSWA in accordance with its terms. CCCSWA has complied with Applicable Law in entering into this Agreement.

**c. No Conflicts.** Neither the execution or delivery by CCCSWA of this Agreement, the performance by CCCSWA of CCCSWA's obligations hereunder, and the fulfillment by CCCSWA of the terms and conditions of this Agreement does not knowingly (1) conflict with, violate or result in a breach of any Applicable Law; or (2) conflict with, violate or result in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which CCCSWA is a Party or by which CCCSWA or any of its properties or assets are bound, or constitute a default thereunder.

**d. No Approvals.** No approval, authorization, license, Permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Agreement

by CCCSWA, except such as have been duly obtained from CCCSWA's Board.

**e. Public Works.** The services provided by the District under this Agreement do not constitute a "public work" and are not subject to any of the provisions of the Public Works law, Labor Code Sections 1720-1901, nor of the regulations promulgated thereunder.

**f. No Litigation.** There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of CCCSWA's knowledge, threatened, against CCCSWA wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by CCCSWA of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity of, or the ability to enforce this Agreement or any other agreement or instrument entered into by CCCSWA in connection with the transactions contemplated hereby.

### **ARTICLE 3. THE PARTIES**

**3.01 The District is Independent Contractor.** The Parties intend that the District will perform the District's obligations as an independent contractor engaged by CCCSWA and neither as an officer or employee of CCCSWA nor as a partner of or joint venturer with CCCSWA. No agents, employees, subcontractors, consultants, licensees or invitees of the District will be deemed to be employees or agents of CCCSWA.

**3.02 Parties in Interest.** Nothing in this Agreement, whether express or implied, is intended to confer any rights on any Persons other than the Parties and their representatives, successors and permitted assigns.

**3.03 Binding on Successors.** The provisions of this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the Parties.

**3.04 Confidentiality of Information.** The Parties acknowledge and agree that information submitted by either Party pursuant to this Agreement may be subject to compulsory disclosure upon request from a member of the public under the California Public Records Act, Government Code Section 6250 *et seq.*

**3.05 Sole Responsibility.** Each Party shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents.

### **ARTICLE 4. TERM OF AGREEMENT**

**4.01 Term.** This Agreement shall become effective on March 1, 2025 and will continue in effect through June 30, 2030, unless terminated earlier in accordance with Article 11.

**4.02 Term Extensions.**

**a. Agreement to Extend.** The Parties may mutually agree to extend this Agreement for two additional one (1) – year terms. The Parties shall endeavor to commit to any desired

extension at least ninety (90) days before the expiration of the then-current term.

**b. Agreement in Full Effect.** All provisions of this Agreement shall remain in effect during any extension.

**4.03 Survival of Certain Provisions.** All indemnifications provided for herein and any other rights and obligations of the Parties expressly stated to survive the termination of this Agreement, shall survive such termination including, but not limited to, the following provisions: Section 6.05 (Records and Reports), Article 8 (Insurance) and Article 9 (Indemnity).

## **ARTICLE 5. PREPARATION, DELIVERY AND ACCEPTANCE OF FOOD WASTE**

**5.01 Delivered Feedstock.** CCCSWA will use Reasonable Business Efforts and will employ the specified procedures in this Agreement, including those in Exhibit A, to ensure that all Feedstock Delivered to the District's Facility does not contain Unacceptable Materials or adversely impact the District's wastewater treatment plant processes.

**a. Preprocessing of Food Waste.** Before Delivery, CCCSWA will ensure that Food Waste passes through the processing machinery (Scott Turbo Separator or "Thor" or equivalent) located at the Transfer Station for this purpose. The equipment is intended to recover at least ninety percent (90%) of the organics typically available in Food Waste while removing Unacceptable Materials (e.g., plastics and other packaging waste) except in *de minimis* quantities that do not disrupt District operations. Pre-processing shall also reduce the size of waste to two-inch minus. Separated Unacceptable Materials will be conveyed to an adjacent pile for disposal. All Food Waste that is processed at the Transfer Station will be source-separated at the origin. No additional sorting or recovery process is proposed beyond workers performing a visual inspection of deposited Food Waste to remove possible glass or metal objects inadvertently included in the load. An end dump compatible with the District's receiving bays is used as the receptacle for the pre-processed Food Waste (also referred to as Feedstock). After loading the water-tight trailer, the trailer remains in the enclosed building and is tarped prior to transport.

**b. Preventing Contamination of Loads.** CCCSWA will use Reasonable Business Efforts to prevent Unacceptable Materials from being included in Feedstock Delivered to the District, including education of Franchised Hauler and Commercial Food Waste Generators, or termination of Food Waste collection service to certain Commercial Food Waste Generators. CCCSWA and the District agree to explore methods that will allow Processing of additional organic materials in the future. CCCSWA's Participant Assessment and Contamination Controls procedures are attached to this Agreement as Exhibit A.

**c. Handling of Plastic Bags Containing Collected Food Waste.** The District acknowledges that the Food Waste is frequently offered for collection in plastic bags. CCCSWA acknowledges that film plastic larger than the two-inch square size can be problematic for the District's operation and therefore constitutes Unacceptable Material if present in Feedstock in larger than *de minimis* quantities. Both Parties agree to mutually explore alternatives for Food Waste collection that may control or reduce the use of plastic bags by program participants. In

addition, for participants in CCCSWA's Food Waste program choosing to use a bag to collect the Food Waste, CCCSWA will require them to use clear plastic bags to allow the CCCSWA's Franchised Hauler to observe the contents prior to collection.

## **5.02 Acceptance of Feedstock.**

**a. Acceptance and Ownership of Feedstock.** Feedstock will be deemed Accepted unless the District rejects the materials as provided in Section 5.02(c) below.

**b. Quality of Feedstock.** The particle size of Feedstock will be less than or equal to two (2) inches in all dimensions. Unacceptable Materials are not allowed. Feedstock shall contain only *de minimis* amounts of metal, plastic (including clear plastic bags used in collection), and grit/glass contamination, and Feedstock must be suitable for slurring and digestion at the District. The Parties acknowledge that the quality of the Feedstock Delivered to the District following installation of the Scott Turbo Separator or "Thor" in Martinez has been satisfactory. The Parties agree to work together on upstream and downstream issues regarding the presence and concentration of plastics in the Feedstock.

### **c. Rejection of Unacceptable Material.**

**(1) Inspection.** CCCSWA and the District shall use Reasonable Business Efforts to inspect loads to detect and discover Unacceptable Material prior to delivery to the District.

**(2) Rejection of Contaminated Loads.** The District may reject any loads containing Unacceptable Materials, if an inspection, visual or otherwise, shows signs of contamination. The District may also determine that the Feedstock quality is unacceptable based on (a) damage to District equipment (b) rate of pomace generation at the District (c) sample screening that find Unacceptable Materials in excess of *de minimis* amounts. Should the District reject any loads, the District shall immediately notify CCCSWA verbally, identifying the District's reason for rejection of the Delivered material and identifying the Franchised Hauler's truck that Delivered such material if the truck was identified, followed by prompt written Notice to CCCSWA. If feasible based on when such notice was provided, Franchised Hauler will remove the rejected loads on the same day as Delivery at no cost to the District. The District and CCCSWA will then have up to six months to address the quality issue, during which time the District will have no obligation to accept loads. If the quality of the Feedstock cannot be improved by the end of six months, then this Agreement may be terminated by either Party.

**d. Delivery Cap.** The District will not be obligated to accept more than 340 tons per month or 40 tons per day of Feedstock delivered.

## **ARTICLE 6. OTHER PROGRAM COMMITMENTS**

### **6.01 Facility Operations.**

**a. Vehicle Turnaround.** The District will make best efforts to allow unloading of CCCSWA Franchised Hauler's vehicles and vehicle turnaround to exit the Facility within an average of thirty (30) minutes or less of arriving at the Facility absent vehicle breakdown, driver



negligence, lack of cooperation, or driver parking to use restrooms, telephone or other driver or truck-related issues, and provided that the truck arrives at the Facility within a reasonable timeframe if previously agreed to by both Parties.

## **6.02 CCCSWA Program.**

**a. Change in CCCSWA's Franchised Hauler.** CCCSWA will Notify the District if the current CCCSWA Franchised Hauler is replaced and will indicate the successor. CCCSWA shall ensure that any successor complies with the terms and conditions of this Agreement.

**b. Permits.** CCCSWA or Franchised Hauler will be responsible for any and all Permits required for Delivery of Feedstock.

## **6.03 General Operations.**

**a. Facility Receiving Hours.** Receiving and operating hours of the Facility are as follows:

(1) Hours of Delivery typically will be agreed upon by the Parties in consideration of convenience and issues of waste flow. Unless otherwise agreed upon by the Parties, the District shall Accept Feedstock from CCCSWA's Franchised Hauler at the Facility between 7:00 a.m. and 3:00 p.m. each Monday through Friday, excluding Holidays. The District may Accept Feedstock at other times by mutual agreement of the Parties at no additional charge.

(2) **Notification in Emergency.** It is the responsibility of CCCSWA or CCCSWA's Franchised Hauler to Notify the District of emergencies, changes in scheduling, etc. that will affect receiving at the Facility.

**b. Scale Operation.** The District has a scale on site but does not currently weigh trucks carrying Feedstock. Therefore, either the Franchised Hauler or the Transfer Station operator will weigh the trucks (1) for billing purposes and (2) to determine the amount of materials diverted. If in the future the District begins operating the on-site scale, the District will have the option to require trucks to be weighed on site and to use that information for billing purposes. Should the District elect to weigh CCCSWA trucks, the District's scales will be used for billing purposes and to determine the amount of materials diverted, provided that (1) the District's scales are state certified and maintained and operated in accordance with all applicable motor vehicle weighing laws and regulations, and (2) CCCSWA has the right to continue to weigh trucks and to challenge the accuracy of the District's weight determinations.

**c. Continuous Operations.** The District shall keep open and operate the Facility continuously and uninterrupted, except when the District is prevented from doing so by any Uncontrollable Circumstance or rejection of loads containing Unacceptable Material.

**d. Safety.**

(1) **Traffic Flow.** The District shall direct traffic upon entry to the Site so that vehicles travel, queue, unload and exit in a safe manner.

#### **6.04 Pomace and Residual of Digested Food Waste.**

**a. Pomace.** The District will arrange and pay for the cost of disposal of all Pomace from the Processing of CCCSWA Feedstock. Compensation to the District for the disposal of Pomace is included in the fee as described in Section 7.02. Because the District receives material for digestion from other commercial and/or governmental sources, Pomace may not actually be from CCCSWA Food Waste and may instead be an equivalent volume based on a CCCSWA-specific Pomace reject rate determined annually by the District. If the District produces and disposes of Pomace, the District will provide CCCSWA with information regarding the disposal of Pomace, including weight and location, when requested.

**b. Residual of Digested Food Waste.** The District will divert from landfill the Residual of Digested Food Waste through compost, land application, or any use consistent with CalRecycle recycling guidelines. The Residual of Digested Food Waste will not routinely be disposed of at a landfill or used for alternative daily cover or any other beneficial use at a landfill without prior approval of the CCCSWA. However, under emergency conditions, the District may utilize landfill disposal if it becomes necessary to continue operations. If the District disposes of the Residual of Digested Food Waste at a landfill, the District will Notify CCCSWA within five (5) days. CCCSWA has the right to request information regarding the diversion of Residual of Digested Food Waste, including location.

#### **6.05 Records and Reports.**

**a. General Record Keeping.** The District shall maintain such accounting, statistical and other records related to its performance under this Agreement as shall be reasonably necessary to develop the reports required by this Agreement. Also, the District agrees to receive input from CCCSWA if necessary on data collection, information and record keeping, and reporting activities required to comply with Applicable Laws and regulations and to meet the reporting and Food Waste program management needs of CCCSWA, including the requirements of AB 939 and SB 1383.

The District shall maintain records required to conduct its operations, to support requests it may make to CCCSWA, and to respond to requests from CCCSWA in the conduct of CCCSWA business, including CCCSWA's compliance with Applicable Laws and regulations. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up in order to ensure complete and accurate retrieval of information.

#### **b. Financial Records.**

**Retention of Records.** Unless otherwise herein required, the District shall retain the CERCLA (Comprehensive Environmental Response, Compensation and Liability Act) Disposal Records, Monthly Reports, and Annual Reports required to be maintained by this Agreement for at least five (5) years after the expiration or earlier termination of this Agreement. Alternatively, the District may send the records and data to CCCSWA after the District's normal retention period has expired. Records and data that are specifically directed to be retained shall be made available to CCCSWA upon request.

In the event CCCSWA requests certain records or the District discontinues providing Food Waste Processing services to CCCSWA, the District shall provide all records requested by CCCSWA within forty-five (45) days.

**CERCLA Disposal Records.** CCCSWA views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, CCCSWA regards the ability to prove where Pomace and Residual of Digested Food Waste resulting from the Processing of Feedstock Delivered by CCCSWA's Franchised Hauler was taken for disposal, as well as where it was not taken, to be matters of concern. The District shall maintain, retain and preserve records that can establish where such Pomace and Residual of Digested Food Waste was disposed (and therefore establish where it was not). This provision shall survive the expiration or earlier termination of this Agreement. The District shall maintain these records for a minimum of ten (10) years beyond expiration or earlier termination of this Agreement, in an organized and indexed manner, and either in physical (e.g., weigh tickets) and/or electronic form and provide these records to CCCSWA on a regular basis. Alternatively, the District may send these records to CCCSWA after the District's normal retention period has expired. CCCSWA, however, may elect to obtain such physical and electronic records at the expiration of this Agreement, or upon termination.

**c. Monthly Invoices.** Monthly invoices will include summaries of dates and tonnage of Feedstock Delivered. In addition, CCCSWA has the right to request information on the disposal of Pomace and Residual of Digested Food Waste, including location. Fees will be billed to, and invoices sent to, CCCSWA.

**d. Annual Report.** The Annual Report shall be based on a calendar year and shall include the content of the monthly invoices and provide summaries as follows: dates and tonnage of Feedstock Accepted; records related to energy production; and greenhouse gas credit information. The Annual Report shall include a certification regarding any CCCSWA Feedstock used to power the Facility, which CCCSWA's member agencies may rely on in demonstrating their efforts to achieve their procurement obligations under SB 1383. A template form of certification is attached at Exhibit B.

**e. Report Submittal.**

All reports shall be submitted to:

Executive Director  
Central Contra Costa Solid Waste Authority  
1850 Mt Diablo Blvd., Suite 320  
Walnut Creek, CA 94596  
Email: David@recyclesmart.org

**6.06 CCCSWA Ability to Tour and Inspect Facility.** CCCSWA and its designated representative(s) have the right to enter, observe and tour the Facility on reasonable notice and at the convenience of the District staff upon the District's written approval, including email communication. CCCSWA can also be accompanied on such tours by board members, city councilmembers, mayors, representatives from educational organizations, and public relations or

media representatives. CCCSWA and its representatives or guests will comply with the District's safety and security rules.

**6.07 Ongoing Evolution of Program.** Periodically and when necessary during the term of this Agreement, the Parties will meet to discuss the ongoing evolution of the Food Waste program. The Parties agree to use good faith efforts to resolve issues that arise based on concerns or impacts identified throughout the life of the project contemplated by this Agreement.

**6.08 Training and Support.**

**a. CCCSWA Training.** CCCSWA will conduct training for all relevant food handling staff and management at Commercial Food Waste Generators, describing participation procedures, acceptable Food Waste, and Unacceptable Materials.

**b. District Commitments.** The District will provide in-kind technical assistance and support during the term of this Agreement to CCCSWA and its Franchised Hauler. This support includes but is not limited to evaluating additional materials for digestion, review of education materials, review of presentations to the CCCSWA Board, and program evaluation.

## **ARTICLE 7. COMPENSATION**

**7.01 General.** The compensation provided for in this Article will be the full, entire and complete compensation due to the District pursuant to this Agreement for all labor, equipment, material and supplies, taxes, insurance, bonds, overhead, transport, Acceptance, Processing, Pomace and Residual of Digested Food Waste disposal, and all other things necessary to perform the services required by this Agreement in the manner and at the time prescribed. There are no separate, additional payments from CCCSWA to District for Pomace disposal. There are no separate, additional payments from District to CCCSWA for power generation. CCCSWA is not obligated to reimburse the District for any losses that the District may incur due to fluctuations in the costs of Processing Feedstock.

**7.02 Fee and Fee Escalation.** The parties agree that the compensation paid to the District for the services provided by the District under this Agreement shall be: Eighty-five and No/100 Dollars (\$85.00) per Ton of Feedstock Accepted by the District for Processing. Thereafter, the price will adjust (increase or decrease) each year on July 1 (beginning on July 1, 2026), using the change in the CPI for Urban Wage Earners and Clerical Workers from January of the previous year to January of the then-current year.

**7.03 SB 1383 Procurement Eligible Product.** The District will allocate the procurement-eligible product associated with CCCSWA's Food Waste to CCCSWA and its member agencies by providing in the annual report a certification, Exhibit B, that CCCSWA's member agencies may rely on it demonstrating their efforts to achieve their procurement obligations under SB 1383.

**7.04 Best Price Available.** Annually during the term of this Agreement, the Parties will review the District's other food waste Processing contracts with the goal of ensuring that CCCSWA receives the best price available from the District for similar service using similar feedstock for

the Food Waste Processing cost. Should a price decrease or revenue share increase be warranted, the new pricing would go into effect the next March 1.

**7.05 Biosolids Reopener.** In the event that the District's cost to have biosolids removed and disposed exceeds or is projected to exceed \$100/wet ton on an annual average basis, then the District will reassess its cost to Process Feedstock at the current price. If the District finds that the current price does not cover its cost to Process Feedstock, the Parties agree to initiate negotiation and mutually agree to cost changes in the upcoming Contract Year.

## **ARTICLE 8. INSURANCE**

### **8.01 Insurance Requirements**

**a. CCCSWA Insurance.** CCCSWA shall secure and maintain or shall require its Franchised Hauler to secure and maintain, in full force and effect during the Term, workers' compensation insurance, commercial general and auto liability insurance, commercial auto/trucking liability insurance, and pollution liability insurance to the extent specified below, and as required by law.

CCCSWA and/or its Franchised Hauler must provide evidence of insurance coverage by completing and submitting the District certificate forms provided. Each District certificate form must be completed and signed by the CCCSWA and/ or Franchised Hauler insurance broker or agent. All changes to insurance coverage by CCCSWA must be submitted in writing to and approved in advance by the District. The District may modify or increase the nature or extent of required insurance coverage with notice to CCCSWA. This Agreement will have no force or effect until the required insurance has been approved by the District. Failure to maintain the required insurance will be grounds to terminate this Agreement. Acceptance of the certificates shall not relieve CCCSWA and/ or its Franchised Hauler of any of the insurance requirements, nor decrease the liability of CCCSWA. In addition, CCCSWA shall require all Franchise Haulers performing work under this agreement to include EBMUD as additional insured for the ongoing and completed operations.

The insurance required hereunder may be obtained by a combination of primary, excess and/or umbrella insurance, and coverage shall be at least as broad as the requirements listed in this Agreement.

For any coverage that is provided on a claims-made coverage form (which type of form is permitted only where specified), the retroactive date must be shown and must be before the date of this Agreement, and before the beginning of any services related to this Agreement.

For all claims-made policies the updated verification of insurance must be provided to the District for at least three (3) years after expiration or termination of this Agreement.

If claims-made coverage is canceled or is non-renewed and if the claims-made coverage is not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement and prior to the start of any services related to this Agreement, CCCSWA

and/or its Franchised Hauler must purchase an extended reporting period for a minimum of three (3) years after expiration or termination of the Agreement.

The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained herein.

The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of CCCSWA and/or its Franchised Hauler. Where additional insured coverage is required, the additional insured coverage shall be "primary and non-contributory," and will not seek contribution from the District's insurance or self-insurance.

A severability of interest provision must apply for all the Additional Insureds, ensuring that CCCSWA and/or its Franchised Hauler's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the policies' limit(s).

CCCSWA agrees to provide immediate Notice to District of any loss or claim against CCCSWA and/or its Franchised Hauler arising out of, pertaining to, or in any way relating to this Agreement, or Services performed under this Agreement. The District assumes no obligation or liability by such Notice but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the District. In addition, the District has the right, but not a duty, to settle any such claims.

CCCSWA agrees, upon request by the District, to provide complete, certified copies of any policies and endorsements within 10 days of such request (copies of policies may be redacted to eliminate premium details.)

It is CCCSWA's responsibility to ensure its compliance with the insurance requirements. Any actual or alleged failure on the part of the District to obtain proof of insurance required under this Agreement shall not in any way be construed to be a waiver of any right or remedy of the District, in this or any regard.

No coverage required shall be cancelled, non-renewed or materially reduced in coverage or limits without the District being provided at least thirty (30) days prior written notice, other than cancellation for the non-payment of premiums, in which event the District shall be provided ten (10) days prior written notice. Replacement of coverage with another policy or insurer, without any lapse in coverage or any reduction of the stated requirements does not require notice beyond submission to the District of an updated certificate of insurance.

Unless otherwise accepted by the District, all required insurance must be placed with insurers with a current A.M. Best's rating of no less than A-V.

The terms and obligations of this section shall survive termination of this Agreement.

**b. Workers' Compensation Insurance.** CCCSWA shall, or shall require its Franchised Hauler to, take out and maintain during the life of this Agreement, Workers' Compensation and Employer's Liability insurance for all of its employees working on this project. In lieu of evidence of Workers' Compensation insurance, the District will accept a Self-Insuring Certificate from the State of California.

**c. Commercial General Liability Insurance.** CCCSWA shall, or shall require its Franchised Hauler to, take out and maintain during the life of this Agreement Commercial General Liability Insurance that provides protection from claims which may arise from operations or performance under this Agreement.

The amounts of insurance coverages shall not be less than the following:

- \$2,000,000/Occurrence & Aggregate, Bodily Injury, Property Damage
- \$2,000,000/Occurrence & Aggregate, Personal Injury, Advertising Injury
- \$2,000,000/Occurrence & Aggregate, Productions/Completed Operations

The following coverages or endorsements must be included in any applicable general liability and/or excess/umbrella policy:

- (1) To the fullest extent permitted by law, the District, its directors, board, and committee members, officers, officials, employees, agents, and volunteers must be covered as Additional Insureds on a primary and noncontributory basis on all underlying, excess and umbrella policies that shall be evidenced in each case by an endorsement. Coverage for the Additional Insureds must be as broad as ISO forms CG 20 10 (ongoing operations) and CG 20 37 (completed operations) for liability arising in whole, or in part, from work performed by or on behalf of CCCSWA and/or its Franchised Hauler, or in any way related to services performed under this Agreement.
- (2) The coverage is primary and non-contributory to any other insurance carried by the District;
- (3) The general liability policies including any umbrella and/or excess policies covers contractual liability and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CCCSWA and/or its Franchised Hauler under this Agreement as an "insured contract";
- (4) The policies are written on an occurrence basis and must be broad as Insurance Services Office (ISO) form CG 00 01;
- (5) The policies cover personal injury (libel, slander, and wrongful entry and eviction) liability;
- (6) The policies cover products and completed operations and shall not contain any "prior work" coverage limitation or exclusion applicable to any services performed by CCCSWA and/or its Franchised Hauler on CCCSWA or its Franchised Hauler's behalf;
- (7) Insurance policies and Additional Insured Endorsement(s) shall not exclude liability and damages to work arising out of, pertaining to, or in any way relating to

services performed by a subcontractor on CCCSWA and/or its Franchised Hauler's behalf.

- (8) A severability of interest provision must apply for all the Additional Insureds, ensuring that CCCSWA's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the policies' limit(s).

**d. Commercial Auto/Trucking Liability Insurance.** CCCSWA and/or its Franchised Hauler shall take out and maintain during the life of this Agreement Commercial Auto/Trucking Liability Insurance that provides protection from claims which may arise from operations or performance under this Agreement.

The amounts of insurance coverages shall not be less than the following:

- \$2,000,000/Occurrence & Aggregate – Bodily Injury, Property Damage Automobile

The following coverages or endorsement must be included:

- (1) EBMUD, its Directors, Officers, and employees are Additional Insureds for purposes of all underlying and/or any excess/umbrella policies as to the work being performed under this Agreement;
- (2) The coverage is primary and non-contributory to any other insurance carried by EBMUD;
- (3) The policy(ies) covers contractual liability;
- (4) The policy(ies) cover the use of owned, non-owned, and hired automobiles and trucks;
  - a. CCCSWA and/or its Franchised Hauler shall not transport hazardous materials or contaminants.
  - b. If CCCSWA and/or its Franchised Hauler's scope of work under this Agreement exposes a potential pollution liability risk related to seepage, release, escape or discharge of any nature (threatened or actual) of pollutants into the environment arising out of, pertaining to, or resulting from the District Permit holder's and/or subcontractors' performance under this Agreement, then Auto Liability Insurance policy(ies) must be endorsed to include Transportation Pollution Liability insurance. Alternatively, coverage may be provided on the District Permit holder's Pollution Liability Policy(ies). Coverage to also include leakage of fuel or other "pollutants" needed for the normal functioning of covered autos.
- (5) A severability of interest provision must apply for all the Additional Insureds, ensuring that CCCSWA and/or its Franchised Hauler's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the insurer's limits of liability.

**e. Pollution Liability Insurance.** CCCSWA and/ or its Franchised Hauler shall take out and maintain during the life of the Agreement, Pollution Liability Insurance with a minimum



of \$2,000,000 of liability coverage. The amount of insurance shall not be less than \$2,000,000 per occurrence, and with a three-year tail if written on a claims-made basis.

Coverage must be included for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs arising out of, pertaining to, or in any way related to the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants, arising out of, pertaining to, or in any way resulting from any services performed by CCCSWA and/ or its Franchised Hauler under this Agreement; including any transportation of hazardous wastes, hazardous materials, or contaminants.

A deductible may be acceptable upon approval of EBMUD. The policy shall provide thirty (30) days advance written notice to for cancellation or reduction in coverage.

If Coverage is written on a claims-made form, the following shall apply:

1. The retroactive date must be shown and must be before the date of the Agreement or the beginning of the services.
2. Insurance must be maintained, and evidence of insurance must be provided for a minimum of three (3) years after completion of the services.

**f. Waiver of Subrogation Rights.** CCCSWA and/or its Franchised Hauler agrees to waive any and all rights of recovery against the District regardless of applicability of any insurance proceeds and to require all indemnifying parties to do likewise. General and Commercial Automobile/Trucking Liability and Workers' Compensation policy(ies), including any applicable excess and umbrella insurance, must contain a waiver of subrogation endorsement providing that CCCSWA and/or its Franchised Hauler and each insurer waive any and all rights of recovery by subrogation, or otherwise, against the District, its directors, board and committee members, officers, officials, agents, volunteers, and employees. CCCSWA and/or its Franchised Hauler shall defend and pay any and all damages, fees, costs, etc. arising out of, pertaining to, or in any way related to CCCSWA and/or its Franchised Hauler's failure to provide the waiver of subrogation from the insurance carrier.

**g. District Self-insured.** The District is self-insured. To the extent the District owes obligations that typically would be covered by commercial insurance (including but not limited to comprehensive general, auto, and workers compensation policies) or by pollution liability insurance, the District agrees to pay for its obligations from its self-insurance. The District agrees that its self-insurance program shall be maintained at a level that at minimum will provide coverage in the amounts set forth below in Article 8 that apply to CCCSWA.

## **ARTICLE 9. INDEMNITY**

**9.01 Indemnification.** CCCSWA shall defend with counsel acceptable to the District, indemnify, and hold harmless the District, its directors, officers, employees and agents, from and against any and all claims, damages, loss, penalties, costs and liability including environmental claims, damages, loss, penalties, costs and liability (collectively, "Losses") to the extent such Losses are attributable to, caused by, or result from the willful misconduct or the negligent or

reckless acts or omissions of CCCSWA in the performance of CCCSWA's obligations under this Agreement, provided that CCCSWA shall not hold harmless, or provide indemnity for Losses to the extent such Losses are attributable to, caused by, or result from the willful misconduct or the negligent or reckless acts or omissions of the District or its directors, officers, employees, or agents in the performance of the District's obligations under this Agreement.

The District shall defend with counsel acceptable to CCCSWA, indemnify, and hold harmless CCCSWA, its directors, officers, employees and agents, from and against any and all Losses to the extent such Losses are attributable to, caused by, or result from the willful misconduct or the negligent or reckless acts or omissions of the District or its directors, officers, employees, or agents in the District's operation and maintenance of the Facility, provided that the District shall not hold harmless, or provide indemnity for Losses to the extent such Losses (1) are attributable to, caused by, or result from CCCSWA wastes Delivered to the Facility that are not in compliance with the terms of this Agreement or (2) from the willful misconduct or the negligent or reckless acts or omissions of CCCSWA or its directors, officers, employees, or agents in the performance of CCCSWA's obligations under this Agreement.

The terms and obligations of this Article shall survive termination of this Agreement.

## **ARTICLE 10. MEET AND CONFER, BREACHES AND DEFAULTS**

**10.01 Request to Meet and Confer.** If any dispute arises between the Parties in the performance of this Agreement, or if any problem occurs that materially affects this Agreement or a Party's ability to perform under this Agreement, including a change in Applicable Law that affects either Party's ability to receive diversion credits under AB 939 or SB 1383, either Party can send Notice describing the problem and requesting a meet and confer. The Parties may choose to meet in person or by teleconference. The meet and confer process is intended to be a prerequisite to sending a Notice of Breach.

If either Party does not agree to the meet and confer, does not appear at the meet and confer meeting, or if the Parties are not able to correct the performance issue or solve the problem within a reasonable time after the meet and confer, the aggrieved Party may send a Notice of Breach.

Notwithstanding the above, there is no requirement that the meet and confer process be used for a failure to pay, or for urgent matters of public health or other matters requiring immediate resolution.

### **10.02 Breaches.**

**a. Definition.** A breach is a material failure to perform any of the obligations conferred by any provision of this Agreement.

**b. Notice of Breach.** Either Party shall promptly Notice the other Party regarding the occurrence of a breach as soon as such breach becomes known to the Noticing Party, unless the Party chooses in lieu of sending a Notice of Breach to send a meet and confer Notice pursuant to Section 10.01, in which case the Notice of Breach need not be sent until the conclusion of the meet and confer process. Such Notice shall be given verbally followed immediately by written Notice.

If, at the time the Notice of Breach is delivered, this Agreement is or has been suspended under Section 11.01 due to an occurrence that endangers public health, welfare or safety, the suspension will continue until the written agreement specified in Section 10.06 is fully executed, unless expressly waived by the Party delivering the Notice of Breach.

**c. Cure of Breach.** CCCSWA and the District shall begin cure of any breach as soon as possible after it becomes aware of its breach. Upon receiving verbal Notice of a breach, CCCSWA or the District shall proceed to cure such breach as follows:

(1) Immediately, if the breach is such that in the determination of either the District or CCCSWA, the health, welfare or safety of the public is endangered thereby, unless immediate cure is impossible in which event the Party required to cure shall Notify the other Party, and the other Party may seek substitute services.

(2) Within thirty (30) calendar days of giving or receiving Notice of the breach; provided that if the nature of the breach is such that it will reasonably require more than thirty (30) calendar days to cure, CCCSWA or the District shall not be in default so long as CCCSWA or the District promptly commences to cure its breach, secures written agreement from the other Party to extend the thirty (30) calendar day cure period, and provides the other Party, no less than weekly, written status of progress in curing such breach, and diligently proceeds to complete same.

**d. Remedy of Breach, Other Remedies.** The Parties shall be entitled to all available monetary or equitable remedies, including specific performance and injunctive relief.

### **10.03 Default.**

**a. Events of District Default.** Each of the following shall constitute an event of default by the District.

(1) **Uncured Breach of Agreement.** The District fails to cure any breach as specified in Section 10.02.

(2) **Repeated Pattern of Breaches.** A pattern of breaches of this Agreement over time such that the combination of breaches constitutes a material failure by the District to perform its obligations, even if each individual breach is later cured.

**b. Notice of Default.** The District shall be in default from the date of receipt of a Notice from CCCSWA identifying such default.

**c. CCCSWA Remedies in the Event of District Default.** Upon failure to cure a District default pursuant to Section 10.02, CCCSWA shall, in addition to its right to collect monetary damages, have the following rights:

(1) **Waive Default.** To, at its sole discretion, waive the District default.

(2) **Termination.** Terminate this Agreement in accordance with Article 11, provided that no termination shall be effective until CCCSWA has given Notice to the District of its decision to terminate this Agreement.

(3) **All Other Available Remedies.** In addition to, or in lieu of termination, to exercise all of its remedies in accordance with this Article and any other remedies at law and in equity, to which CCCSWA shall be entitled, according to proof.

(4) **Damages Survive.** If the District owes any damages upon CCCSWA's termination of this Agreement, the District's liability under this Section 10.03 shall survive termination.

d. **Events of CCCSWA Default.** Each of the following shall constitute an event of default by CCCSWA.

(1) **Uncured Breach of Agreement.** CCCSWA fails to cure any breach as specified in Section 10.02.

(2) **Repeated Pattern of Breaches.** A pattern of breaches of this Agreement over time such that the combination of breaches constitutes a material failure by CCCSWA to perform its obligations, even if each individual breach is later cured.

e. **Notice of Default.** CCCSWA shall be in default from the date of receipt of a Notice from the District identifying such default.

f. **District Remedies in the Event of CCCSWA Default.** Upon failure to cure a CCCSWA default pursuant to Section 10.02, the District shall, in addition to its right to collect monetary damages, have the following rights:

(1) **Waive Default.** To, at its sole discretion, waive the CCCSWA default.

(2) **Termination.** Terminate this Agreement in accordance with Article 11, provided that no termination shall be effective until the District shall have given written notice to CCCSWA of its decision to terminate this Agreement.

(3) **All Other Available Remedies.** In addition to, or in lieu of termination, to exercise all of its remedies in accordance with this Article and any other remedies at law and in equity, to which the District shall be entitled, according to proof.

(4) **Damages Survive.** If CCCSWA owes any damages upon the District's termination of this Agreement, CCCSWA's liability under this Section 10.03 shall survive termination.

**10.04 Substitute Services.** In addition to exercising any or all remedies specified in Section 10.03, with regard to an event of District breach or default, respectively, or due to an Uncontrollable Circumstance, CCCSWA may at its sole discretion seek substitute services.

**10.05 Waiver.** A waiver by one Party of one breach or default by the other Party shall not be deemed to be waiver of any other breach or default by that Party, including ones with respect to the same obligations hereunder, and including new incidents of the same breach or default. The subsequent acceptance of any damages or other money paid hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or default.

**10.06 Determination of Remedy or Cure of Breach or Default.** Upon request of either Party, an event of breach or default shall be considered remedied or cured upon signature by both Parties of a written agreement specifying the event and stating that remedy and/or cure of such event has been completed.

#### **10.07 Uncontrollable Circumstances.**

**a. Performance Excused.** Neither Party shall be in breach of its obligations hereunder in the event, and for so long as, it is impossible or extremely impracticable for it to perform such obligations due to an Uncontrollable Circumstance if such Party exerted Reasonable Business Efforts to prevent such Uncontrollable Circumstance, and such Party expeditiously takes all actions within its control to end, or to ameliorate the effects of such Uncontrollable Circumstance as soon as possible.

The District shall carry and keep in force such insurance as is needed to mitigate the financial effects of Uncontrollable Circumstances to which the Facility or the District may be subject. All insurance proceeds available from policies covering any Uncontrollable Circumstance act or event must be used to mitigate any damages caused by insurable events.

**b. Notice.** The Party claiming excuse from performance of its obligations based on an Uncontrollable Circumstance shall Notify the other Party as soon as is reasonably possible, but in no event later than three (3) working days after the occurrence of the event constituting the Uncontrollable Circumstance. The Notice shall include a description of the event, the nature of the obligations for which the Party claiming Uncontrollable Circumstance seeks excuse from performance, the expected duration of the inability to perform and proposed mitigation measures.

### **ARTICLE 11. TERMINATION**

#### **11.01 Parties' Right to Suspend or Terminate.**

**a. Suspension.** Either Party shall have the right to suspend this Agreement, in whole or in part, upon (1) the occurrence of a default under Section 10.03 regarding a failure to perform obligations, or (2) an occurrence that endangers public health, welfare or safety. Such suspension shall be no longer than forty-five (45) calendar days except as provided in Section 10.02.

**b. Termination for Other Reasons.** The Parties shall have the right to terminate this Agreement at any time after this Agreement is executed if one or more of the following events occur:

**(1) Default.** Occurrence of a default, or a breach which is not cured within the time frame specified in Section 10.02.

**(2) Criminal Activity.** Either Party is found guilty of felonious conduct arising out of or in the performance of this Agreement or an official duty. The term "found guilty" shall be deemed to include any judicial determination that the Party or any of the Party's officers or directors is guilty, and any admission of guilt including, but not limited to, the pleas of "guilty," "nolo contendere," "no contest," or "guilty to a lesser felony" entered as part of any plea bargain.

**(3) Facility Damage or Destruction.** In the event the Facility is totally destroyed or is materially damaged and the District fails to reconstruct or repair the Facility.

**(4) Nutrient Limits** In the event the Facility receives a new National Pollutant Discharge Elimination System (NPDES) permit that contains nutrient limits that are materially different from the Facility's current permit, or the District determines that nutrients associated with accepting Food Waste is materially impacts the District's ability to protect the San Francisco Bay, comply with its permit, or meet other regulatory requirements, then the District may limit Deliveries or terminate this Agreement. Under these circumstances, the District would not continue to receive food waste or similar materials from any other source. Notice of termination shall be effective six (6) months thereafter; provided, however, that such Notice shall be effective immediately if the public health or welfare is threatened.

**c. Payments Upon Termination.** Upon termination for any reason listed in subparagraph (b) above, the District shall accept as full payment for services rendered to the date of termination any payments required based on the portion of work actually performed. If CCCSWA has made any payment for services that have not been performed, then the District shall promptly repay to CCCSWA that amount.

## **ARTICLE 12. OTHER PROVISIONS**

**12.01 Notices.** Except as otherwise expressly specified in this Agreement, all Notices, requests, acknowledgements, approvals, and other communications made hereunder to be sent pursuant to this Agreement shall be made in writing and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt; (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service; (iv) email transmission, in which case notice shall be deemed delivered upon transmittal, provided that a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery. Any notice given by email shall be considered to have been received on the next business day if it is received after 5:00 p.m. or on a non-business day.

If to CCCSWA:

CCCSWA Executive Director  
1850 Mt. Diablo Blvd, Suite 320  
Walnut Creek, California 94596  
Telephone: (925) 906-1801  
Fax: (925) 906-1805  
Email: David@recyclesmart.org

If to the District:

EBMUD Manager of Wastewater Environmental Services  
Attn: Alicia Chakrabarti  
P.O. Box 24055, MS 702  
Oakland, California 94623-1055  
Telephone: (510) 287-1608  
Email: alicia.chakrabarti@ebmud.com

The address to which communications may be delivered may be changed from time to time by a Notice given in accordance with this Section.

## **12.02 Authorized Representatives.**

**a. CCCSWA.** For purposes of this Agreement, the CCCSWA's authorized representative will be the CCCSWA Executive Director or their designee, who will have the authority to make operational decisions and financial decisions in accordance with Applicable Law and CCCSWA policy with respect to this Agreement that are binding on CCCSWA.

**b. The District.** For purposes of this Agreement, the District's authorized representative will be Eileen White, Director of Wastewater or their designee, provided that notices may be sent to the Manager of Wastewater Environmental Services as provided in Section 12.01.

**12.03 Assignment.** Neither Party may assign its rights or responsibilities under this Agreement to any other entity without the consent of the other Party.

**12.04 Conflicting Provisions.** In the event the provisions of the Articles herein conflict with those of the Exhibits hereto, the Articles shall prevail.

**12.05 Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of California.

**12.06 Amendments.** The Parties may change, modify, supplement, or amend this Agreement only upon mutual written agreement duly authorized and executed by both Parties.

**12.07 Venue.** The venue for any legal proceedings initiated by the District related to this Agreement shall be the County of Contra Costa or County of Alameda, or, in case of federal jurisdiction, Federal District Court, Northern District.

**12.08 Severability.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, then, notwithstanding, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.

**12.09 Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby. All Exhibits are hereby incorporated into this Agreement by reference. This Agreement shall completely and fully supersede all prior understandings and agreements between the Parties with respect to such transactions. However, nothing in this paragraph shall supersede or diminish the representations and warranties as contained in Article 2.

**12.10 Savings Clause.** If any phrase, clause, section, subsection, paragraph, subdivision, sentence, term, or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is finally found to be void, invalid, illegal, or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision will remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situations will remain in full force and effect.

**12.11 Execution and Delivery.** This Agreement may be executed in several counterparts, each one of which shall constitute an original and all collectively shall constitute but one instrument. Unless otherwise prohibited by law, the Parties agree that an electronic signature to this Agreement and an electronic copy of this Agreement have the same force and legal effect as an original ink signature transmitted in hard copy (e.g., transmission via email of a .pdf file containing a scanned or digitally applied signature).

**[Remainder of page intentionally left blank. Text continues on next page.]**



IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the date first above written.

CENTRAL CONTRA COSTA SOLID  
WASTE AUTHORITY

EAST BAY MUNICIPAL UTILITY  
DISTRICT

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Gina Dawson  
CCCSWA Chair

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Amit Mutsuddy  
EBMUD Director of Wastewater

ATTEST:

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Janna McKay  
CCCSWA Secretary to the Board

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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Deborah Miller  
CCCSWA Attorney

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for the EBMUD Office of General  
Counsel

## **Exhibit A**

### **CCCSWA Participant Assessment and Contamination Control Procedures for Food Waste Delivered to the District**

#### **Participant Assessment:**

1. Acceptable Food Waste includes: fruits, vegetables, meat, seafood, small bones, dairy, eggs, breads, pastas, sauces, cooking oil, grease, tea, coffee grounds, other related food waste materials, and tissue paper, paper napkins, paper towels, tea bags, and coffee filters.
2. Potential participants for the food waste program include restaurants, assisted living facilities, grocery stores, schools, hospitals, fast food restaurants, and any other business or institutional facility that has food service.
3. Source separation is required. Program participants will be required to separate the acceptable waste from Unacceptable Materials and place the acceptable waste in designated containers. The ideal candidate for the program will have significant pre-served food waste available for collection and may be permitted to include post-consumer food waste if adequate practices are established to control contamination.
4. Zero Tolerance Rule for Contamination. The program will clearly establish zero tolerance for any Unacceptable Materials. Unacceptable Materials considered contamination by this program includes: Plastic, polystyrene, glass, metal, liquids, paper, cardboard, wood, yard waste, paper that is accepted in CCCSWA's recycling programs, including but not limited to newspapers, magazines, catalogs, office paper, cardboard, books, detergent boxes, egg cartons, paper bags, paperboard boxes, shredded paper, and telephone directories, and all other non-food waste materials.
5. During set up/training, level of management control over kitchen staff will be assessed.
6. After participant is trained and participation has started, CCCSWA will review participant's method of handling post-served/post-consumer food waste to determine if this material can be included once the participant has proven its ability to consistently deliver clean pre-consumer food waste.

#### **Training:**

1. Conduct training for all kitchen staff describing participation procedures, acceptable waste, and zero tolerance for contamination.
2. Training will be conducted in the predominant language spoken by kitchen staff.
3. Once participation has started, conduct one follow up visit. If deficiencies are noted, conduct retraining with kitchen and management staff.
4. Participants must use clear plastic bags to collect the waste to allow route Franchised Hauler to observe contents prior to collection. Alternative paper bags will be encouraged whenever possible.

#### **Containers/Signage:**

1. Each participant will receive an appropriate number of 25-gallon "Slim Jim" collection containers for indoor use and clearly marked 64-gallon carts or 1-2 yard boxes for

- outdoor storage of Food Waste.
2. Participants will be instructed to use clear plastic bags for containment of Food Waste to preserve cleanliness and hygiene. Paper bags will be encouraged for use as alternatives to plastic whenever possible. Clear bags will permit the program route Franchised Hauler to observe bag contents and check for contaminants.
  3. Each participant will be provided with the following signage to instruct staff in proper participation procedures and maintain awareness:
    - a. 11" x 17" posters displaying approved and prohibited food waste for placement on walls
    - b. 8" x 11" posters displaying approved and prohibited food waste for placement on walls or collection containers
    - c. 5" x 12" "bumper sticker" signage for differentiating food collection containers from refuse containers.

Signs will be distributed in sufficient numbers to serve needs of new participants. Additional posters and signs will be provided upon request.

**Oversight:**

1. Route Franchised Hauler will check contents of collection carts and/or clear collection bags prior to disposal. In instances where contaminants are detected, Food Waste will be left uncollected and a notice of non-collection left on the cart. The participant's name and the date will be recorded for follow-up by route supervisor/program managers.
2. Franchised Hauler staff will conduct spot checks of participants to assess participation, sufficient number of collection containers, fill levels of containers, and contamination. Inspectors will use these spot check opportunities to update restaurants on procedural changes or other important information.
3. Repeated contamination incidents and disinterest or inability by the participant's management to correct the problem will result in removal from program.

## **Exhibit B**

### **Template Form of Annual Certification Attached to Annual Report**

Pursuant to the Agreement between Contra Costa County Solid Waste Authority (CCCSWA) and the East Bay Municipal Utility District (EBMUD) for Food Waste Processing and Disposal Services dated [\_\_\_\_], EBMUD makes the following certifications for the period: \_\_\_\_\_ to \_\_\_\_\_ (“Term”). *[insert time period]*

5. As of the date hereof, EBMUD is in compliance with the exclusion in 14 Cal. Code Regs. § 17896.6(a)(1).
6. The total Tons of organic waste received from CCCSWA service area under the Agreement during the Term is: \_\_\_\_\_ Tons. *[insert number of tons]*
7. The percentage of biosolids that EBMUD produced and transported to activities that constitute landfill disposal during the Term is: \_\_\_\_\_ percent. *[insert percent]*
8. The calculated amount of renewable energy produced from organic waste received from CCCSWA service area under the Agreement during the Term is: \_\_\_\_\_ kWh. *[insert number of kWh]*
- 5) The percentage of renewable energy produced from organic waste received from CCCSWA service area under the Agreement during the Term that was used to power EBMUD facilities is: \_\_\_\_\_ percent. *[insert percent]*

I am a representative of EBMUD duly authorized to make the certifications herein on its behalf. I make the certifications herein under penalty of perjury based on the best of my actual knowledge.

Signature: \_\_\_\_\_

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

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

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

CCCSWA AND EBMUD  
AGREEMENT FOR FOOD WASTE PROCESSING AND DISPOSAL SERVICES  
ANNUAL CERTIFICATION ATTACHED TO ANNUAL REPORT

Pursuant to the Agreement between Contra Costa County Solid Waste Authority (CCCSWA) and the East Bay Municipal Utility District (EBMUD) for Food Waste Processing and Disposal Services dated July 2014 and effective March 1, 2015, EBMUD makes the following certifications for the period: January 1, 2023 to December 31, 2023 ("Term").

- 1) As of the date hereof, EBMUD is in compliance with the exclusion in 14 Cal. Code Regs. § 17896.6(a)(1).
- 2) The total tons of organic waste received from the CCCSWA service area under the Agreement during the Term is: 1,755 tons.
- 3) The percentage of biosolids that EBMUD produced and transported to activities that constitute landfill disposal during the Term is: zero point one percent (0.1%)
- 4) The calculated amount of renewable energy produced from organic waste received from the CCCSWA service area under the Agreement during the Term is: 263,237 kWh.
- 5) The percentage of renewable energy produced from organic waste received from the CCCSWA service area under the Agreement during the Term that was used to power EBMUD facilities is: 75.5 percent.

I am a representative of EBMUD duly authorized to make the certifications herein on its behalf. I make the certifications herein under penalty of perjury based on the best of my actual knowledge.

Signature: 

Name: Cindy Green

Title: Senior Civil Engineer

Date: May 28, 2024





# Agenda Report

**TO:** CCCSWA BOARD OF DIRECTORS  
**FROM:** DAVID KRUEGER, EXECUTIVE DIRECTOR  
**DATE:** SEPTEMBER 26, 2024  
**SUBJECT:** BASE RATE APPLICATION FOR RATE YEAR 11

## RECOMMENDED ACTION

1. This report is provided for information only. No Board action is required.

## DISCUSSION

On August 1, 2024, Republic Services (Republic) submitted its index-based rate application for Rate Year 11 (RY11) to the Authority. This year, and for the remainder of the Republic agreement, the adjustment will be made using the index method. The potential amount and requirements for special rate adjustments beyond the index-based adjustment are set forth in the Third Amendment to the agreement. Staff has reviewed the rate application and sent clarifying questions to Republic. The review and approval of the rate application will be completed in early October, then staff will begin meeting with the individual member agencies to develop their rate adjustment strategies. Member agencies will have the opportunity to revise their rate strategies before the rates are adopted in January 2025. The rates will take effect on March 1, 2025. RY11 is March 1, 2025 – February 28, 2026.

The RY11 application shows an index-based increase in Republic's compensation of 3.34% from RY10. In addition, Republic is eligible for a special rate adjustment if service quality metrics are met. Based on Republic's service quality to date, the maximum possible special rate adjustment for RY11 is an additional 2.53%. If this is achieved, the total increase in Republic's compensation would be 5.87% (3.34% index-based adjustment + 2.53% special rate adjustment). Staff will know the exact amount of the special rate adjustment by October 14, 2024.

Last year the Authority paid a consultant \$29,812.50 to review the RY 10 rate application. This year staff is conducting the rate review without consultant assistance.





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# Agenda Report

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**TO:** CCCSWA BOARD OF DIRECTORS

**FROM:** FRANCHISE DESIGN AD HOC COMMITTEE  
DAVID KRUEGER, EXECUTIVE DIRECTOR

**DATE:** SEPTEMBER 26, 2024

**SUBJECT:** RECOMMENDATIONS REGARDING NEW COLLECTION FRANCHISE  
RFP

## RECOMMENDED ACTION

1. Approve the Ad Hoc Committee's recommendations to include the business points that are contained in Attachments A & B in the collection services Request for Proposals (RFP) and draft agreement; and
2. Authorize staff to continue sole source negotiations with Mount Diablo Resource Recovery (MDRR) for Reuse & Cleanup services, and to not include those services in the collection services RFP.

## SUMMARY

We are in the final stages of preparing the RFP for collections services. As was done during the drafting of the post-collection RFP, the Ad Hoc Franchise Design Committee ("Committee") is requesting Board approval of key business points that will go into the RFP. Those points are described below and in Attachments A and B. In short, the Committee believes that the recommended business points will result in RFP responses that will provide the Authority with the information it needs to make a sound decision on the selection of a hauler that maximizes service to our ratepayers at a competitive price.

## DISCUSSION

Per the procurement schedule adopted by the Board at the September 28, 2023 Board meeting, the Authority will issue an RFP for collection services immediately after the October 24, 2024 Board meeting. In preparation for this RFP, staff, consultants, and the Committee recommend that the Board approve the business points that are detailed in Attachments A and B. If approved, these recommendations will be incorporated into the collection services RFP and the draft collection services agreement that will be distributed with the RFP. The Committee plans to bring the full RFP and draft agreement for its approval to the Board at its October 24 meeting.

As the Board will recall, a separate RFP for post-collection services was issued in April 2024. Staff and the Ad Hoc Franchise Selection Committee will present their recommendations for award of post-collection agreements at the October 24, 2024 Board meeting. Post-collection services include transfer, disposal, recyclables processing, composting and commercial food scraps processing and transfer to EBMUD. Accordingly, the collection RFP will not include these services. The selected collection provider will be directed to deliver materials to the selected post-collection facilities. The new agreements for both collection and post-collection services will commence on March 1, 2027. The schedule of the entire procurement process is provided as Attachment C.

At the September 28, 2023 Board meeting, the Board authorized staff to enter into sole source negotiations with MDRR for Reuse & Cleanup Day services with the provision that “Negotiations for Reuse & Cleanup Days must be concluded, and the agreement signed by MDRR, by the **October 24, 2024** Board meeting, or those services will be included in the collection RFP.” Staff requests additional time to conduct these negotiations and recommends that Reuse & Cleanup Days service not be included in the collection services RFP at this time. The Committee recommends that the Board authorize staff to continue negotiations. If agreement cannot be reached, staff could conduct a separate Reuse and Cleanup RFP or negotiate these services with the successful collection proposer.

#### ATTACHMENTS

- A. Collection Services RFP Business Points
- B. Collection Services Requested Tables
- C. Procurement Timeline

## Collection Services RFP Business Points

### 1. Vehicles

#### a. Transition to Zero Emission Vehicles (ZEVs)

According to the California Air Resources Board's (CARB) Advanced Clean Fleet (ACF) Regulations, the Authority's collection contractor will be required to transition to ZEV's during the term of the upcoming franchise agreement. Approved ZEV's currently include battery electric vehicles and hydrogen fuel cell vehicles. It would not be practical or economical for the Authority to require its collection contractor to purchase all ZEV's at the beginning of the franchise agreement. ZEV's are not yet available in sufficient quantity and are significantly more expensive than Internal Combustion Engine (ICE) vehicles (e.g. diesel or Compressed Natural Gas (CNG) vehicles), even after considering grants and other incentives. In addition, there are still challenges with ZEV technology, specific to refuse fleets, regarding range, payload, fueling/charging time, and fueling/charging infrastructure. At current performance levels, hauling companies that have piloted these vehicles report that it will take more than one ZEV refuse vehicle to do the work of one diesel or CNG vehicle, increasing the overall number of vehicles and drivers needed – a significant cost impact to ratepayers. It is also possible that CARB's timeline for ZEV conversions of specialty fleets like refuse may need to be extended. Therefore, the Committee recommends a policy goal that the collection contractor meet the ZEV requirements, but that the ratepayers should not incur additional costs to exceed them. The current ZEV implementation schedule is provided below.

#### ZEV Fleet Milestones by Milestone Group and Year

Percentage of vehicles that must be ZEVs	10%	25%	50%	75%	100%
<b>Milestone Group 1: Box trucks, vans, buses with two axles, yard tractors, light-duty package delivery vehicles</b>	2025	2028	2031	2033	2035 and beyond
<b>Milestone Group 2: Work trucks*, day cab tractors, pickup trucks, buses with three axles</b>	2027	2030	2033	2036	2039 and beyond
<b>Milestone Group 3: Sleeper cab tractors and specialty vehicles*</b>	2030	2033	2036	2039	2042 and beyond

\*Refuse trucks are Group 3 if they meet the definition of a specialty vehicle. Otherwise, they are Group 2.

The majority of the vehicles that will be used in our service area will be in Group 3. The required ZEV milestone percentages shown above relate to a company's entire California fleet. To avoid having the Authority's ratepayers take responsibility for a disproportionate cost of our collection contractor's statewide ZEV fleet compliance, the Committee recommends that the Authority pay for no more than the milestone percentage of ZEV's during each rate year specific to the fleet operating in the service area. This results in an obligation that the contractor meets the same percentage for the remainder of their California fleet as they meet for the Authority. For example, if in 2033 the Authority's collection contractor was required to have 25% of its Group 3 vehicles in the state be ZEV's, then our ratepayers would only pay the cost for up to 25% of the Group 3 vehicles used in our service area being converted to ZEV's. A collection company could propose to convert a greater percentage of the fleet in our service area to ZEV's, but would have to bear the additional cost without compensation from our ratepayers.

b. Phase in Actual ZEV Transition Costs as they are Incurred

The Committee recommends a “pay as we go” approach to the ZEV transition. Our next franchise agreement will begin on March 1, 2027. Therefore, if the CARB milestones remain the same, the collection cost proposals would assume no Group 3 ZEV’s and no more than 10% Group 1 and Group 2 ZEV’s. Each proposer will submit a ZEV implementation schedule for the multi-year term of the agreement. Each year the Authority and the selected collection contractor would review the schedule, and the Authority would approve the purchase of any ZEV’s required for the upcoming year. Authority staff would ensure that the contractor had appropriately specified the vehicles, obtained competitive pricing, and had utilized all available grants and incentives. This will also allow an opportunity for the Authority to pause or delay ZEV purchases in the event that the regulations are relaxed or delayed. The incremental cost of the ZEV’s would be incorporated into the rates at the time that the ZEV’s are put into service. This avoids proposers having to estimate the future cost of ZEV’s or average the cost over the term of the agreement, either of which would likely result in greater costs to ratepayers than the proposed “pay as we go” approach.

When a non-ZEV vehicle is replaced by a ZEV, the Authority would only increase the collection contractor’s compensation by the difference in the annual depreciation cost of the two vehicles, plus the cost of any charging infrastructure. For example, if a diesel vehicle with depreciation of \$45,000 per year were replaced by a ZEV vehicle and charging infrastructure with depreciation of \$90,000 per year, the Authority would increase the collection contractor’s compensation by \$45,000 per year. The collection contractor would be required to depreciate the ZEV’s over their useful life, and the Authority would not be responsible for any portion of the ZEV’s cost that was not fully depreciated by the end of the agreement. For example, if the collection contractor purchased a \$900,000 ZEV and charging infrastructure when there were two years left on the franchise agreement term, and depreciated it over ten years, the Authority would not be responsible for the remaining \$720,000 at the end of the agreement.

c. Allow Used Vehicles

The Authority required all new vehicles at the beginning of the current franchise agreement. However, during the term of the upcoming franchise agreement, the collection contractor will be required to phase in ZEV’s. It would be costly for a collection contractor to purchase all new ICE vehicles and then replace them with ZEV’s over the term of the agreement. Therefore, the Committee recommends allowing the collection contractor to utilize used ICE vehicles that will be replaced by ZEV’s according to the contractor’s proposed implementation schedule. It will be the collection contractor’s sole cost and responsibility to sell, scrap, or relocate the ICE vehicles as they are replaced by ZEV’s.

d. Allow Multiple Vehicle Fuels

The Authority required all CNG collection vehicles during its last RFP process. Given the uncertainty of the new ZEV technology, the Committee recommends allowing proposers to propose ZEV’s powered by any CARB-approved fuel (currently battery electric or hydrogen fuel cell). Since the Authority’s last collection RFP, lifecycle analyses conducted in academic and research environments have determined that CNG vehicles are not significantly cleaner than modern diesel

vehicles, especially when considering natural gas leaks in pipelines and during extraction. Based on this and the potential cost and truck-availability issues associated with specifying a fuel, the Committee recommends that collection companies be allowed to propose diesel, CNG, or any CARB-compliant fuel for non-ZEV vehicles.

## **2. Agreement Term (Years)**

Collection franchise agreements are typically about ten years long because most collection vehicles are depreciated over ten years. However, as explained above, during the term of this franchise agreement, the collection contractor will have to transition to ZEV's creating approximately one and a half ten-year depreciation cycles. Therefore, the Committee recommends a term of approximately 15 years.

## **3. Match Rate Year to Fiscal Year**

The current franchise agreement uses a March 1 through February 28 rate/agreement year. The Committee recommends that the new agreement use a July 1 through June 30 rate/agreement year to match the fiscal year of the Authority and its Member Agencies. The transition would be accomplished by having an initial 16-month rate period of March 1, 2027 – June 30, 2028.

## **4. Annual Rate Adjustment Method**

The committee recommends continuing the current rate adjustment method: A cost-based rate adjustment every three or four years, with multi-index rate adjustments in the years between. Multi-index rate adjustments are like a Consumer Price Index (CPI) adjustment except using different indices (fuel, labor, etc.) for different kinds of costs. Cost-based adjustments seek to align contractor's compensation to the contractor's actual allowed costs and profit. The Committee also recommends the following minor modifications to the cost-based rate adjustment method:

### **a. Allowance for Growth**

During the term of the current agreement, the Authority did not approve requested increases in contractor's compensation to fund additional trucks and drivers. This may have contributed to some of the service quality problems that occurred. The Committee recommends allowing increases in compensation to fund additional trucks and drivers, if the collection contractor can demonstrate that the additions are needed due to growth: More customers, participation, or tons to collect. However, the collection contractor would still be held to the productivity assumptions in its proposal. For example, if a proposer assumed 1,000 homes per route per day but later discovered it could only collect 800 homes per route per day, without any growth in tons/participation, the Authority would not be obligated to approve additional compensation for additional trucks and drivers.

### **b. Revenue Reconciliation**

Rates are set with the assumption that the resulting revenue will cover the contractor's allowed compensation and profit for the year. For example, if the contractor's revenue requirement increases by 3%, our existing process assumes that raising all rates by 3% will generate the required revenue.

In actuality, such a rate adjustment might generate too much or too little revenue – entirely based on the decisions of customers related to their subscription levels.

In the prior franchise agreement, the Authority conducted annual revenue reconciliations. The current franchise agreement made a significant change and does not take revenue into account in any rate year. This effectively changed from always including revenue in the rate formula to never including revenue in the rate formula. This may have contributed to an “underfunding” of the current contractor and subsequent service quality problems. HF&H reports that most agencies conduct revenue reconciliations at the same time as cost-based adjustments in order to comprehensively recognize the revenue and cost impacts.

The Committee recommends reconciling revenues as well as costs when performing the cost-based rate adjustments every three or four years. Note that rate adjustments based on actual costs and revenues would not be retroactive and would only seek to adjust from the cost-based rate year going forward. Below is a simplified example:

	<b>Current Year Revenue Requirement</b>	<b>Projected Revenue from Current Subscription Levels</b>	<b>Rate Adjustment Factor</b>
Contractor’s Revenue	\$40,000,000	\$42,000,000	-5%

Note that while this example is in the ratepayers’ favor, adjustments can also be in the contractor’s favor. The Committee recommends capping rate increases resulting from the cost-based rate adjustment and revenue reconciliation at 7% in any given year.

#### **Business Points that will Remain Unchanged from Current Agreement**

Staff and the Committee considered changes to the following policies and recommend no changes at this time:

- Keep bundled service for organics and recyclables
  - Organics and recyclables services provided at no additional charge
  - For all sectors (commercial, single-family, multi-family)
  - Rates based on solid waste service volume only
- Maintain existing rate structure
  - Same rate differentials between container sizes
  - Same rate differentials between sectors (commercial, single-family, multi-family)
  - Continue to offer 20-gallon single-family solid waste cart/rate
  - No senior/low-income discount
- Stop service for delinquent accounts
  - No liens or administrative assessments

- No mandatory service except for in the County
  - Generators may comply with SB 1383 through self-haul
- No additions to the list of customers paying hard-to-serve rates
  - Proposers bid costs, not rates
  - Overall rates will be set to recover the collector's cost
- Non-Exclusive C&D Collection
  - Not included in the exclusive collection franchise





## **New Collection Franchise RFP**

### **Services Requested**

<b>Single-Family Dwelling (SFD) Collection Services</b> <b>New or Modified Services in Red</b>	
<b>Service</b>	
<b>Recyclable Materials</b>	<ul style="list-style-type: none"><li>• Each customer to receive one recyclable materials cart at no additional charge (bundled service), additional carts available for a fee</li><li>• Weekly, curbside collection</li><li>• Carts (32-, 64-, and 96-gallon)</li><li>• Recyclable materials, including cardboard, that are not set out in the approved cart will not be collected</li><li>• On-Call 4x/year extra recyclables and/or organics collection for no additional charge</li></ul> <p><b>Alternative Bid #1: Second Recycling Cart</b></p> <ul style="list-style-type: none"><li>• SFD customers may receive a second recycling cart at no additional charge upon request</li></ul> <p><b>Alternative Bid #2: Unlimited Recycling</b></p> <ul style="list-style-type: none"><li>• SFD customers may set out recyclables overages on their regular weekly collection day next to their full blue carts in paper bags, cardboard boxes, or resident-provided containers. Extra cardboard boxes that do not fit in the blue cart and are not used to set out other recyclables must be flattened. SFD customers do not need to notify contractor regarding overages. SFD recyclables overages collected at no additional charge.</li><li>• SFD customers may receive a second recycling cart at no additional charge upon request</li><li>• Replaces On-call 4x/year extra recyclables collection</li></ul>

Single-Family Dwelling (SFD) Collection Services New or Modified Services in Red	
Service	
Organic Materials	<ul style="list-style-type: none"> <li>Each customer to receive one organic materials cart at no additional charge (bundled service), additional carts available for a fee</li> <li>Weekly, curbside collection</li> <li>Containers provided by contractor</li> <li>Carts (20-, 32-, 64-, 96- gallon)</li> <li>Organic materials that are not set out in the approved cart will not be collected</li> <li>Provide kitchen pails to all new SFD accounts and to existing SFD accounts upon request, at no charge</li> <li>On-call 4x/year extra recyclables and/or organics collection for no additional charge</li> </ul> <p><b>Alternative Bid #1: Second Organics Cart</b> SFD customers may receive a second organics cart at no additional charge upon request</p> <p><b>Alternative Bid #2: Unlimited SFD Organics</b></p> <ul style="list-style-type: none"> <li>SFD customers may set out organics overages on their regular weekly collection day next to their full green carts in paper bags or resident- provided containers. Branches must be bundled and tied. SFD Customers do not need to notify contractor regarding overages. SFD organics overages collected at no additional charge.</li> <li>SFD customers may receive a second organics cart at no additional charge upon request</li> <li>Replaces On-Call 4x/year extra organics collection</li> </ul>
Solid Waste	<ul style="list-style-type: none"> <li>Weekly, curbside collection</li> <li>Carts (20-, 32-, 64-, or 96- gallon)</li> <li>SFD customers may set out solid waste overages on their regular weekly collection day next to their full black carts in standard garbage bags. SFD customers do not need to notify contractor regarding overages, and do not need to purchase special bags or tags. Contractor may charge SFD customers a per-bag fee for collection of solid waste overages.</li> </ul>

Single-Family Dwelling (SFD) Collection Services New or Modified Services in Red	
Service	
Backyard or Side yard	<ul style="list-style-type: none"> <li>On-property service for a fee</li> <li>Disability on-property service for no additional charge</li> </ul>
Household Hazardous Waste (HHW) and Used Motor Oil	<ul style="list-style-type: none"> <li>Curbside household batteries in resident-provided bags, placed on top of solid waste cart.</li> <li>Cell phones and compact fluorescent bulbs collected in resident-provided bags placed adjacent to solid waste cart.</li> <li>Motor oil and motor oil filter recycling kit available from Contractor. Set out adjacent to recyclable materials cart.</li> <li>Cooking oil collected in contractor- provided jugs. Set out adjacent to organics cart.</li> <li>No need for customers to call to schedule a cooking oil or motor oil collection. Call to request containers, not pick-up</li> </ul>

**Note:** Collection of reusable items, electronics, bulky items, clean-up day materials, illegally dumped materials, and holiday trees is not included in the collection services RFP and will be provided through a separate franchise agreement.

<b>Multi-Family Dwelling (MFD) Collection Services</b> <b>MFD = multiple residential units sharing containers</b> <b>New or Modified Services in Red</b>	
Service	
<b>Recyclable Materials</b>	<ul style="list-style-type: none"> <li>• “Bundled” rates, no direct charge for recyclable materials, unlimited service</li> <li>• Minimum weekly collection</li> <li>• <b>Maximum six times per week</b></li> <li>• Carts (32-, 64-, and 96-gallons)</li> <li>• Bins (1-8 cubic yards)</li> <li>• Drop boxes/Compactors (8-40 cubic yards)</li> <li>• All recyclables must fit inside the container (no collection of overages)</li> <li>• <b>At least one recycling container in every solid waste service location (enclosure, chute room, etc.) by rate year three</b></li> <li>• Provide reusable in-unit recycling tote bags upon manager or resident request</li> </ul>
<b>Organic Materials</b>	<ul style="list-style-type: none"> <li>• “Bundled” rates, no direct charge for organic materials, unlimited service</li> <li>• Minimum weekly collection</li> <li>• <b>Maximum six times per week</b></li> <li>• Carts (20-, 32-, 64-, and 96-gallons)</li> <li>• <b>Bins (1-6 cubic yards)</b></li> <li>• Drop boxes/Compactors (8-40 cubic yards) for a per-pull fee</li> <li>• All organics must fit inside the container (no collection of overages)</li> <li>• <b>At least one organics container in every solid waste service location (enclosure, chute room, etc.) by rate year Three</b></li> <li>• <b>At least 3 gallons per unit per week of organics service for all complexes by rate year three</b></li> <li>• Provide kitchen pails upon resident or manager request</li> </ul>

<b>Multi-Family Dwelling (MFD) Collection Services</b> <b>MFD = multiple residential units sharing containers</b> <b>New or Modified Services in Red</b>	
Service	
<b>Solid Waste</b>	<ul style="list-style-type: none"> <li>• Minimum weekly collection</li> <li>• <b>Maximum six times per week</b></li> <li>• Carts (32-, 64-, and 96-gallons)</li> <li>• Bins (1-8 cubic yards)</li> <li>• Drop boxes/Compactors (8-40 cubic yards)</li> <li>• Overages in/on the container are automatically collected for an additional fee</li> </ul>
<b>Push/Pull Service</b>	<ul style="list-style-type: none"> <li>• Contractor to push MFD carts and bins up to 25 feet and back at no additional charge</li> <li>• Further distances for a fee</li> <li>• Push/Pull fee applies to recyclable materials and organic materials containers as well as solid waste containers</li> </ul>
<b>Household Hazardous Waste (HHW) and Used Motor Oil</b>	<ul style="list-style-type: none"> <li>• <b>Cooking oil collected in contractor- provided jugs. Set out location determined by property manager.</b></li> </ul> <p><b>Alternative Bid #1: MFD Battery Collection</b></p> <ul style="list-style-type: none"> <li>• Household battery collection bucket to be placed in the property management office for household battery collection at MFDs with 16 units or more.</li> </ul>

**Note:** Collection of reusable items, electronics, bulky items, clean-up day materials, illegally dumped materials, and holiday trees is not included in the collection services RFP and will be provided through a separate franchise agreement.

<b>Commercial Collection Services</b> <b>New or Modified Services in Red</b>	
Service	
<b>Recyclable Materials</b>	<ul style="list-style-type: none"> <li>• “Bundled” rates, no direct charge for recyclable materials, unlimited service</li> <li>• Minimum weekly collection</li> <li>• <b>Maximum six times per week</b></li> <li>• Carts (32-, 64-, and 96-gallons)</li> <li>• Bins (1-8 cubic yards)</li> <li>• Drop boxes/Compactors (8-40 cubic yards)</li> <li>• All recyclables must fit inside the container (no collection of overages)</li> <li>• <b>At least one recycling container in every solid waste service location (enclosure, trash room, etc.) by rate year three</b></li> <li>• Contractor stores and distributes indoor recycling containers (e.g. “Slim Jims”) provided by the Authority</li> </ul>
<b>Organic Materials</b>	<ul style="list-style-type: none"> <li>• “Bundled” rates, no direct charge for organic materials, unlimited service</li> <li>• Minimum weekly collection</li> <li>• <b>Maximum six times per week</b></li> <li>• Carts (32, 64, and 96-gallons)</li> <li>• <b>Bins (1-6 cubic yards)</b></li> <li>• Drop boxes/Compactors (8-40 cubic yards) for a per-pull fee</li> <li>• All organics must fit inside the container (no collection of overages)</li> <li>• <b>At least one organics container in every solid waste service location (enclosure, trash room, etc.) by rate year three</b></li> <li>• Contractor stores and distributes indoor organics containers (e.g. “Slim Jims”) provided by the Authority</li> </ul>

<b>Commercial Collection Services</b> <b>New or Modified Services in Red</b>	
Service	
<b>Commercial Food Scraps</b>	<ul style="list-style-type: none"> <li>• <a href="#">Food Recycling Project - RecycleSmart</a></li> <li>• Separate collection of food scraps for anaerobic digestion. Food scraps only. Separate route from Organic Materials</li> <li>• “Bundled” rates, no direct charge for food scraps, unlimited service</li> <li>• Minimum weekly collection</li> <li>• <b>Maximum six times per week</b></li> <li>• Carts (32- and 64-gallons)</li> <li>• Bins (1 and 2 cubic yards)</li> <li>• All food scraps must fit inside the container (no collection of overages)</li> <li>• Contractor stores and distributes indoor food scraps containers (e.g. “Slim Jims”) provided by the Authority</li> </ul>
<b>Solid Waste</b>	<ul style="list-style-type: none"> <li>• Minimum weekly collection</li> <li>• <b>Maximum six times per week</b></li> <li>• Carts (32-, 64-, and 96-gallons)</li> <li>• Bins (1-8 cubic yards)</li> <li>• Compactor Bins (1.5- 6 cubic yards)</li> <li>• Drop boxes/Compactors (8-40 cubic yards)</li> <li>• Overages in/on the container are automatically collected for an additional fee</li> </ul>
<b>Push/Pull Service</b>	<ul style="list-style-type: none"> <li>• Contractor to push commercial carts and bins up to 25 feet and back at no additional charge</li> <li>• Further distances for a fee</li> <li>• Push/Pull fee applies to recyclable materials and organic materials containers as well as solid waste containers</li> </ul>
<b>Public Schools</b>	<ul style="list-style-type: none"> <li>• Not exclusive, but may obtain commercial services at the same rates as franchised commercial customers within the member agency that they are located</li> <li>• “Bundled” rates, no direct charge for recyclable materials, organic materials, or food scraps, unlimited service</li> </ul>

General Requirements and Other Services New or Modified Services in Red	
Service	
Containers	<ul style="list-style-type: none"> <li>Continue to utilize existing containers provided under the previous franchise agreement</li> <li>New replacement containers provided by contractor as needed (new accounts, broken or lost containers, etc.). Replacement containers will not have the contractor's logo and will be marked with a phone number specific to the Authority's service area that will remain with the Authority at the end of the agreement</li> <li>Contractor to re-label all existing commercial and MFD bins by the end of rate year 1, and replace or repair/repaint any bins that are in poor condition</li> <li>20-gallon carts will be true 20-gallon carts, not 32-gallon carts with 20-gallon inserts.</li> <li>Cart colors: <ul style="list-style-type: none"> <li>Recyclables: Blue body and lid</li> <li>Organic Materials: Green body and lid</li> <li>Commercial Food Scraps: Green body and lid</li> <li>Solid Waste: Black body and lid OR gray body and lid</li> </ul> </li> <li>Bin colors: <ul style="list-style-type: none"> <li>Recyclables: Blue body with black lid</li> <li>Organic Materials: green body with black lid</li> <li>Commercial Food Scraps: Green body with black lid</li> <li>Solid Waste: gray body with black lid</li> </ul> </li> <li>Authority has the option to maintain ownership of all carts and bins at the end of the Agreement.</li> <li>Provide locked container service on request</li> </ul> <p><b>Alternative Bid #1: Re-label Carts</b></p> <ul style="list-style-type: none"> <li>Contractor to re-label all existing carts (lid and sides) by the end of rate year 1</li> </ul> <p><b>Alternative Bid #2: Replace Carts</b></p> <ul style="list-style-type: none"> <li>Contractor to replace all existing carts by the end of rate year 1</li> <li>At each service location, the new carts must be delivered at the same time that the old carts are removed</li> </ul>



<b>General Requirements and Other Services</b> <b>New or Modified Services in Red</b>	
Service	
<b>Technical Assistance, Public Education and Outreach</b>	<ul style="list-style-type: none"> <li>One full time municipal contract manager</li> <li>Five full time recycling coordinators</li> <li>Annual technical assistance and outreach plan approved by the Authority</li> <li>Contractor conducts annual site visits of every multi-family, commercial, and school account, <b>unless otherwise approved by the Authority through the annual outreach and technical assistance plan</b></li> <li>Contractor must track technical assistance and SB 1383 customer compliance utilizing a third-party web-based reporting platform (e.g. Recyclist) <b>selected and provided by the Authority.</b></li> <li>Annual truck signs (up to <b>three</b> variations) with Authority-approved messaging</li> <li>Contractor stores and distributes printed outreach materials provided by the Authority</li> </ul>
<b>Review of SB 1383 Service Waivers</b>	<ul style="list-style-type: none"> <li>Contractor reviews de minimis and physical space constraint waivers for multi-family and commercial generators and provides recommendation to Authority</li> <li>Contractor provides documentation to the Authority/applicable Member Agency demonstrating that the generator has met the waiver conditions</li> </ul>
<b>SB 1383 Route Audits</b>	<b>Alternative Bid #1: SB 1383 Route Audits</b> <ul style="list-style-type: none"> <li>Audits to be performed by Contractor</li> <li>Each (5-day) route must be audited at least once per year</li> <li>Audited routes must be proportional by member agency</li> <li>Could be on a continuous basis or an annual basis</li> </ul>
<b>Daily Contamination Monitoring</b>	<ul style="list-style-type: none"> <li>Proposers to submit plan to detect and discourage contamination on a daily basis</li> </ul>
<b>Reporting</b>	<ul style="list-style-type: none"> <li>Current report format (Excel) required and all future report formats and information approved by the Authority</li> <li>Monthly, quarterly, and annual reports required</li> <li>Reports must be compatible with Authority-designated web-based third-party reporting platform (e.g. Recyclist)</li> </ul>

<b>General Requirements and Other Services</b> <b>New or Modified Services in Red</b>	
Service	
<b>Public Litter Containers</b>	<ul style="list-style-type: none"> <li>Containers provided and maintained by member agency. Service provided by contractor.</li> <li>Services provided at no charge to member agency</li> <li>Contractor pays for Big Belly (or other determined by Member Agency) container service contracts annually and as needed</li> </ul> <p><b>Alternative Bid #1: Weekend Collection</b></p> <ul style="list-style-type: none"> <li>Contractor to empty public litter containers on weekends in downtown areas</li> </ul>
<b>Services for Member Agency Facilities</b>	<ul style="list-style-type: none"> <li>Containers are collected Monday through Friday, or on Saturdays following non-working holidays</li> <li>Bin and drop box collection is scheduled at a time agreed upon by the Contractor and respective Member Agency</li> <li>Solid waste, recyclable materials, and organic materials collected from all public facilities identified by Member Agency, as a result of routine and customary municipal operations and Member Agency-sponsored events</li> <li>On-call services above regularly scheduled services at rates not to exceed the maximum rates for on-call services for Commercial Subscribers</li> <li>Review of plans for land use or property development</li> </ul>
<b>Billing and Customer Service</b>	<ul style="list-style-type: none"> <li>Contractor bills customers at rates approved by Authority</li> <li>Different rates for each Member Agency</li> <li>Current rates (for example): <a href="#">RY7 Rate Sheets Attachment A - Excel 12.31.2020 (002).xls (recyclesmart.org)</a></li> <li>Residential – quarterly billing</li> <li>Commercial – monthly billing</li> <li>Maximize paperless billing and autopay</li> <li>Vacation holds</li> <li>Contractor conducts annual review of customer billings</li> <li>Delinquent bills: Contractor may terminate collection after 60 days past due from the last day of the billing period and 30 days written notice</li> <li>Local call center</li> </ul>

<b>General Requirements and Other Services</b> <b>New or Modified Services in Red</b>	
Service	
Special Events	<ul style="list-style-type: none"> <li>• 3 community special events per member agency per year at no direct charge, contractor provides: <ul style="list-style-type: none"> <li>○ Collection of organics, recyclables, and solid waste</li> <li>○ Event 3-stream collection stations and monitors</li> <li>○ Staffed public education booth</li> <li>○ Reporting of event diversion</li> </ul> </li> <li>• Additional special events (same services as above) for a fee (e.g. \$/station, \$/1,000 attendees)</li> </ul>
Saturday Service	<ul style="list-style-type: none"> <li>• 6 x per week service available to all Multi-family and Commercial customers for all material and container types</li> <li>• Collections missed on Fridays to be picked up Saturdays, for all customers</li> </ul>









# Agenda Report

**TO:** CCCSWA BOARD OF DIRECTORS  
**FROM:** DAVID KRUEGER, EXECUTIVE DIRECTOR  
**DATE:** SEPTEMBER 26, 2024  
**SUBJECT:** EXECUTIVE DIRECTOR'S MONTHLY REPORT

## SUMMARY

Central Contra Costa Solid Waste Authority (Authority) staff performs high-level programmatic and administrative tasks each month to provide outreach and education to residents, businesses, and schools to increase diversion and instill waste prevention practices. Staff manages the franchise agreements and customer service in addition to monitoring monthly reporting by our service providers. Staff also interacts with Member Agency staff, community groups, and regional partners on a variety of topics including SB 1383, legislation, and industry best practices.

## RECOMMENDED ACTION

1. This report is provided for information only. No Board action is required.

## DISCUSSION

### Notable Events:

- As described in the Third Amendment to the Republic franchise agreement, the new service quality metric is 2,700 or fewer missed container pickups from residential subscribers on incomplete routes in a four-week period. For each period in which the metric is met, Republic is entitled to a special rate increase of \$283,833. The following table shows the number of missed container collections and number of times Republic has met the metric for each of the past six periods. Meeting the metric for four periods means that Republic will receive a special rate increase of at least \$1,135,332 (\$283,833 times four) in Rate Year 11 (March 1, 2025 – February 28, 2026). There is one four-week period remaining in the Rate Year 11 eligibility period. The maximum special rate increase available to Republic for Rate Year 11 is \$1,419,165.

Period	Week Beginning	Number of Missed Residential Collections	Metric Met (2,700 or fewer)
1	April 1	1,464	Yes
2	April 29	2,490	Yes
3	May 27	1,623	Yes
4	June 24	5,784	No
5	July 22	5,198	No
6	August 19	2,466	Yes
7	September 16	Not yet available	Not yet available

- The monthly Member Agency liaison meetings were held on August 8 and September 12. Notes from the meetings are circulated to the liaisons. During the August meeting, discussion items included providing the liaisons with Authority updates, inquiries about large commercial and multi-family developments that might impact the new franchise, request for input on update to the Commercial Service Guide. At the September meeting, discussion items included the compost hub in Heather Farm Park, an update on the franchise process and rate-setting meetings, and an invitation to the next BayROC (Bay Area Recycling Outreach Coalition) meeting.

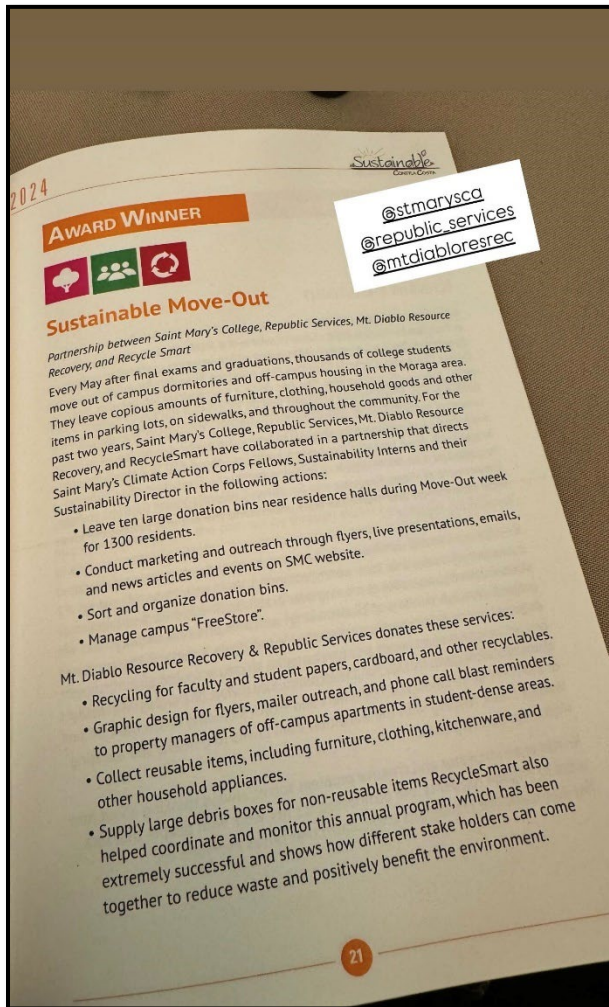
Member Agency Liaisons				
Member Agency	Name	Title	Email	Phone
County	David Brockbank	Conservation Programs Manager	<a href="mailto:David.Brockbank@dcd.cccounty.us">David.Brockbank@dcd.cccounty.us</a>	(925) 655-2911
Danville	Cat Bravo <sup>1</sup>	Management Analyst	<a href="mailto:cbravo@danville.ca.gov">cbravo@danville.ca.gov</a>	(925) 314-3377
Lafayette	Anna Tolle	Planning Technician	<a href="mailto:ATolle@ci.lafayette.ca.us">ATolle@ci.lafayette.ca.us</a>	(925) 299-3205
Orinda	Darin Hughes	Assistant Planner	<a href="mailto:dhughes@cityoforinda.org">dhughes@cityoforinda.org</a>	(925)253- 4269
Moraga	Brian Horn	Senior Planner	<a href="mailto:bhorn@moraga.ca.us">bhorn@moraga.ca.us</a>	(925) 888-7044
Walnut Creek	Candice Rankin Mumby	Sustainability Manager	<a href="mailto:rankinmumby@walnut-creek.org">rankinmumby@walnut-creek.org</a>	(925) 943-5899 x2304

- Annual Financial Audit – FY 2023- 2024. The annual fiscal audit of fiscal year 2023-2024 is being conducted in September. Audit findings will be presented at the December 2024 Board Meeting.
- The Authority contracts with MIG Consulting to develop the RecycleSmart quarterly residential newsletter. MIG and Authority staff now meet bi-annually to conduct high level content planning and prioritize messaging, programs and services for future newsletter issues. The bi-annual planning meeting was hosted on August 12.

<sup>1</sup> Kristine Meidberg is covering for Cat Bravo while Cat is on maternity leave.



- The “Saint Mary’s College Sustainable Move-Out”, a partnership between SMC, the Town of Moraga, the Authority, Republic Services and Mt. Diablo Resource Recovery, was awarded a Leadership in Sustainability Award at the Sustainable Contra Costa Awards Gala on September 18.



To read more visit: <https://sustainablecoco.ning.com/forum/topics/congratulations-to-the-2024-leadership-in-sustainability-award-wi>.

- The Authority also wants to recognize Contra Costa Fruit Rescue for their Leadership in Sustainability Award for their efforts to harvest fresh fruit from Contra Costa County fruit trees and donate the produce to feed people. To learn more about Contra Costa Fruit Rescue and to volunteer visit: [www.forestr.org/fruit-rescue](http://www.forestr.org/fruit-rescue).
- Authority staff and Republic Services participated or will participate in the following community events with a shared outreach booth and provided recycling, organics, and landfill services with waste station monitors:
  - Lafayette Art & Wine Festival, September 21-22
  - Moraga Pear and Wine Festival, September 28

- The Authority, Republic Services and the City of Walnut Creek are partnering to pilot a “compost hub” located at Heather Farm Park where compost will be available to Authority residents on a regular basis at no cost for first-come, self-serve pickup. This service will be on the “honor system” with no staff on site (like the current sandbag pickup). Compost is first-come and available until gone. Staff and Republic Services will coordinate to drop off 20 cubic yards of compost on the same day monthly (e.g. the first Friday of each month) so that residents can plan and arrange for pickup. To help minimize compost being completely gone when residents arrive, they’ll have some advance notice of the drop-off date. The compost will count towards SB 1383 procurement on a population basis, as done currently with the annual giveaway events. This approach will be carefully compared to the very successful annual giveaway events to determine if one or both services should be offered permanently. Staff will also determine the need for a second hub location in the Lamorinda area. If the compost hub is successful, this approach could replace the annual giveaway events. Success may be measured in the amount of compost taken, in what time period, demand for the compost, and positive and negative remarks to the Authority. For compost hub information visit: [www.recyclesmart.org/freecompost](http://www.recyclesmart.org/freecompost). Staff is ‘soft launching’ this service by posting on social media first (RecycleSmart Facebook, Instagram and Nextdoor) as a ‘special early announcement’ for Followers, and staff plans to announce this service to the entire service area in the January RecycleSmart newsletter and provide promotional outreach materials to the Member Agencies to include in their City/Town newsletters. There is always the chance that non-Authority residents and landscapers may use this service. Most jurisdictions that have a compost hub manage misuse of the service by posting the drop-off day for residents to be aware of in advance or having a staffed hub. Pilot results will help the Authority determine best practices. The City of Walnut Creek will also be starting construction at the Park in 2025 and staff may need to find an alternative hub location.

### **SB 1383 Completed and Ongoing Activities in August and September**

The SB 1383 budget and activities are currently funded by CalRecycle SB 1383 local assistance grant funds.

- The Authority contracted with SCS Engineers to complete the SB 1383 required route reviews of the Authority’s 69 commercial and residential trash, recycling and organics routes. The lid flips will take place in October. Prior, the Authority will communicate with member agency police departments and request that the field work be announced in city/town manager e-newsletters. This year, the Authority is piloting a software application called Zabble designed to improve the field representatives’ data collection, tracking and reporting. Zabble’s founder is a Walnut Creek resident. SCS will conduct follow-up technical assistance at commercial and multifamily accounts.
- The Authority contracted with Precision Design to create short, sharable social media, web, and website videos to encourage community members to volunteer with local Food Recovery Organizations including Muffin People based in Moraga, White Pony Express and Contra Costa Fruit Rescue. Increased volunteerism has been a consistent need for Food Recovery Organizations to meet demand and improve direct distribution to collect excess edible food and feed people.

**Staff participated in or attended the following meetings in August and September**

- SB 1383 Bay Area Support Group, August 1 & September 5
- AB 2346 (SB 1383 Procurement modifications) stakeholder meeting, August 6
- California Organics Recycling Council, August 20
- California Resource Recovery Association Annual Conference, August 19-21
- Green Halo Working Group, August 26
- Zero Waste Now Legislative Working Group, August 26
- California Product Stewardship Council Associates meeting, August 28
- BayROC Working Group meeting, September 10
- Lafayette Environmental Task Force meeting, August 8 and September 12
- SB 54 Advisory Board meeting, September 20





## Nation's first citywide reusable cup program rolls out in the Bay Area

By [Mario Cortez](#), Food Reporter Aug 5, 2024

Behind the display case at Petaluma Pie Co., owner Taylor Martinez reached into a bin full of new, purple 12-ounce plastic cups labeled “Sip, Return, Repeat.” They’re ready to be filled with foamy nitro coffee and icy lemonades for customers to sip alongside savory hand pies with inventive fillings, like a “cheeseburger” blend of ground beef and cheddar.

“That’s our best-selling hand pie,” Martinez said, putting the drinks on a counter.

The business is one of 30 participants in the Petaluma Reusable Cup Project, which kicks off Monday. The pilot program, running through November, will replace single-use cups with reusable, insulated to-go cups that can be returned at drop-off bins throughout the city, in an effort to prevent more landfill waste. Other small businesses joining include Avid Coffee, Petaluma Grand Central and Costeaux French Bakery. Local Taco Bell, Peet’s Coffee and the Habit Burger Grill franchises are also participating in the pilot.

The NextGen Consortium, an food industry collaboration with members including Starbucks, Coca-Cola, and Peet’s Coffee, is behind the effort, which is managed by Closed Loop Partners, a New York investment firm working to finance and develop reusable product projects. The program is free to the city, according to an assistant city manager.

A [press release](#) from the group states it is the first initiative of its kind that makes reusable cups the first choice at several restaurants in a U.S. city. If successful, it could be the first step in expanding the program to other cities. Companies like Starbucks and [Blue Bottle Coffee](#) have previously tried to implement their own reusable container programs, but they didn’t become permanent.

A barista pours hot coffee into a reusable cup at Stellina Pronto cafe. The pilot program, running through November, will replace single-use cups with reusable, insulated to-go cups that can be returned at drop-off bins throughout the city.

Carolina Lobel, senior director at the Center for the Circular Economy at Closed Loop Partners, said the group began conversations with the city of Petaluma one year ago, and included local community groups and Zero Waste Sonoma, a regional government body working to reduce landfill waste. She said the program’s goal is to displace “hundreds of thousands” of cups reaching the dump.



“Their input was critical in helping us shape a program that serves the needs of Petaluma’s residents,” Lobel wrote in an email to the Chronicle.

Petaluma assistant city manager Patrick Carter said the program is expected to help the city with its waste reduction and climate goals, such as becoming [carbon neutral by 2030](#).

“One cup doesn’t consume a massive amount of resources to produce and dispose,” Carter wrote in an email to the Chronicle, “but when thousands of cups are used daily (and for a relatively short period of time) in Petaluma, that waste accumulates in a significant way. Reuse is the solution.”

Miles Wood and Brittany Carpenter drink coffee from reusable cups at Stellina Pronto, one of 30 Petaluma businesses participating in the pilot program to prevent more landfill waste.

Other cities have programs to incentivize the use of reusables. Berkeley requires restaurants to charge 25 cents per single-use cup and food container, though enforcement [became more lax](#) during the pandemic. (Berkeley has since hired compliance inspectors). San Francisco has [spent over \\$200,000 on dishware](#) for restaurants to curb the use of single-use plates and cups for dine-in customers.

Martinez, the Petaluma Pie Co. owner, met with a Closed Loop Partners representative to discuss the program about a month ago. A few weeks later, he received a shipment with more than 200 reusable cups at no cost ahead of the program’s start. By Aug. 1, he was already serving drinks using the purple cups. The three-month program stands to save his business over \$1,000, he estimates.

Martinez says it’s been easy to work with the program as it kicks off. When he needs more cups, he simply requests them through a QR code form. There is a drop-off bin outside his shop for customers, or anyone with a reusable cup, to leave theirs after they’ve finished their beverages. Muuse, a reusables logistics company with offices in Canada, Hong Kong and Singapore, will be collecting, sanitizing and redistributing the cups.

Lenea Ferry of Sacramento uses one of the recently released reusable cups in the patio seating area at Petaluma Pie Co. For the program to work, the cups must remain in this distribution loop — away from people’s cupboards and the trash.

For the program to work, the cups must remain in this distribution loop — away from people’s cupboards and, most importantly, the rubbish heap. There are 60 return bins in Petaluma, and Closed Loop Partners will monitor return rates to find out which locations perform best. The group will also evaluate pickups at peoples’ homes.

Martinez says tracking the exact number of cups he or his staff have handed out can be a bit of a challenge, since he doesn’t log complimentary water into his point-of-sale system, to avoid incurring a service fee. On a regular day he estimates customers buy as many as 40 drinks that would need a cup to be served in, on top of free water cups. He hopes the impact can compound with every cup handed out at all participating businesses.

“It feels kind of like we’re all working together to solve the problem, which is really, really awesome,” Martinez said.

## Future Agenda Items

TYPE	BOARD MEETING: 10/24/2024
C	Approve 09/26/2024 Minutes
A	Award Post-Collection Service Agreements
A	Issue Collection Services Request for Proposals (RFP)
I	Executive Director's Monthly Report
I	Update on Solid Waste Collection Rates for Rate Year 11
P	Final 2024 Legislation Update

TYPE	BOARD MEETING: 12/12/2024
C	Approve 10/24/2024 Minutes
A	Distribution of Funds in Excess of the Reserve
I	Annual Financial Audit for FY 2023-24
I	Executive Director's Monthly Report
I	Republic's Collection Service Quality Metrics
I	2023 Annual Report to CalRecycle
P	Solid Waste Collection Rates for Rate Year 11

### **TYPE**

- C – Consent Item
- A – Action Item
- I – Information Item
- P – Presentation