



Date: April 14, 2022

To: Board of Directors

From: Rick Benson, Interim General Manager

Subject: Amendment #3 to Bay View Franchise Agreement

Recommendation:

Approve the proposed amendment to the Franchise Agreement with Bay View Refuse and Recycling Services and authorize the Board President to sign.

Rationale for Recommendation:

The proposed amendment designates Bay View Refuse as the District's agent to monitor the organic waste stream for contamination thereby relieving District staff from that responsibility. The amendment also requires Bay View to identify where the organic waste will be transported as further required by law.

Background:

In September 2016 the California legislature approved and the Governor signed Senate Bill 1383. The purpose of this bill is to reduce the amount of greenhouse gases produced by the California waste stream by diverting most organic materials away from California landfills. All California communities are required to comply with this legislation.

On November 11, 2021 your Board approved an amendment to the Franchise Agreement to bring the Kensington community into compliance with the law. On January 13, 2022 the agreement was further amended in order to clarify wording regarding commercial customers.

Discussion and Analysis:

Under SB 1383 the District is required to assure that the organic waste stream is monitored for contamination. Through this proposed amendment Bay View is contracted to be responsible for monitoring on the District's behalf.

SB 1383 also requires the franchise agreement to include a provision whereby the contractor shall identify, in writing to the District, the designated source separated organic waste recycling facilities to which they will transport organic waste. That provision is also included in this amendment.

Amendment #3 to Bay View Refuse Agreement
April 14, 2022
Page 2 of 2

Fiscal Impact:

Amendment #3 to the Franchise Agreement has no fiscal impact.

**AMENDMENT NO. 3 TO FRANCHISE AGREEMENT FOR SOLID
WASTE, RECYCLABLE MATERIALS, AND ORGANIC MATERIALS
COLLECTION SERVICES BETWEEN THE KENSINGTON POLICE
PROTECTION AND COMMUNITY SERVICE DISTRICT AND BAY
VIEW REFUSE AND RECYCLING SERVICES, INC.**

WHEREAS, The Kensington Police Protection Community Services District (“District”) has the responsibility and authority to provide solid waste handling services to District residents; and

WHEREAS, On October 23, 2014, the Kensington Police Protection Community Services District (“District”) and Bay View Refuse and Recycling Services, Inc. (“Contractor”) entered into a franchise agreement (“Agreement”) for solid waste, recyclable materials and organic materials collection services (collectively, “Solid Waste Services”); and

WHEREAS, on November 11, 2021, the parties amended the Agreement to include additional services as required by SB 1383; and

WHEREAS, on January 13, 2022, the parties further amended the Agreement to clarify services to be provided to commercial customers; and

WHEREAS, effective January 1, 2022, Title 14, Division 7, Chapter 12 of the California Code of Regulations imposes new regulations on jurisdictions responsible for Solid Waste Services, relating to the collecting, monitoring and disposal of Short-Lived Climate Pollutants (“SB 1383 Regulations”); and

WHEREAS, District and Contractor desire to further amend the Agreement to assure conformance with SB 1383 and SB 1383 Regulations regarding collection, monitoring and disposal of Short-Lived Climate Pollutants.

NOW, THEREFORE, the parties do hereby agree to amend the agreement as follows:

Effective April 15, 2022:

- A. Contractor shall, at its sole expense, perform the Solid Waste Services in compliance with applicable state and federal law, including, without limitation, the SB 1383 Regulations.
- B. Without limiting Section A of this Amendment 3 to the Franchise Agreement, Contractor shall conduct hauler route reviews for prohibited container contaminants in collection containers in a manner deemed safe by Contractor. Said review shall be conducted in a manner as outlined in Attachment ‘A’ incorporated into this agreement by this reference. The hauler routes are to be reviewed, at a minimum, annually and in conformance with the requirements of 14 CCR Section 18984.5, et. seq.
- C. On or before June 2, 2022, and annually thereafter, Contractor shall identify in writing to District the designated source separated organic waste recycling facilities to

which they will transport Organic Waste, including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste. Contractor will only transport the source separated organic waste collection stream to facilities so identified to the District.

D. Except as amended herein, all terms and conditions set forth in the Agreement as previously amended shall remain in full force and effect.

BAYVIEW REFUSE AND RECYCLING, INC.

KENSINGTON POLICE PROTECTION
AND COMMUNITY SERVICES
DISTRICT
A California Special District

Greg Christie
President

Sylvia Hacaj
President, Board of Directors

APPROVED AS TO FORM:

Ann R. Danforth
District General Counsel

ATTACHMENT A

CONTAMINATION MONITORING

Contractor shall conduct Hauler Route reviews that include inspection of the contents of Customer Collection Containers for Prohibited Container Contaminants in a manner such that the greater of a minimum of twenty percent (20%) of Containers per container type on each and every Hauler Route are inspected annually. The Containers shall be randomly selected by a method proposed by Contractor and approved by District.

If District and/or CalRecycle notifies Contractor that the methodology is inadequate to meet the requirements of 14 CCR Section 18984.5(b). Contractor shall revise its methodology and after obtaining District or CalRecycle's approval, conduct additional Hauler Route reviews, increased Container inspections, or implement other changes using the revised procedure. District's contract administrator may request modifications to the schedule to permit greater inspections.

If Prohibited Container Contaminants are found in a Container, Contractor shall follow the protocols outlined below.

Contractor shall maintain records and report to District on Contamination Monitoring activities, Route reviews and action taken.

CONTAMINATION MONITORING PROCEDURES

This Section presents inspection methods under for Prohibited Contaminants to be used by Contractor in conducting contamination monitoring.

Container Inspection Method

When Contractor Hauler Route personnel dismounts from Collection Vehicles to empty a container, such personnel shall lift the Container lid and observe the contents. Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the contamination procedures and contaminated Container handling protocols set forth below (Contamination Monitoring).

ACTIONS UPON IDENTIFICATION OF PROHIBITED CONTAINER CONTAMINANTS.

1. Record Keeping. The driver or other Contractor representative shall record each event of identification of Prohibited Container Contaminants in a written log or Daily Route Sheet, including date, time, Customer's address, type of Container and, if practicable, maintain photographic evidence. This record shall be submitted to the Contractor Customer Service Department, which shall update the Customer's account record to note the event. This same information shall be transmitted to the District via quarterly reports.

2. Identification of Excluded Waste. If Contractor's personnel observe Excluded Waste in an uncollected Container, said personnel shall issue a non-Collection Notice for this Container and shall not Collect the Discarded Materials. Contractor personnel shall record the observation as above. If the contents of the uncollected Container is suspected to include hazardous Waste, then this shall be investigated by the Supervisor within one (1) Business Day, or sooner, if this hazardous waste may cause immediate danger.
3. Courtesy Pick-Up Notices. Upon identification of Prohibited Container Contaminants in Customer's Container, Contractor shall provide the Customer a courtesy pick-up notice. The courtesy pick-up notice shall (1) inform the Customer of the presence of Prohibited Container Contaminants; (2) include the date and time the Prohibited Container Contaminant was observed; (3) include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the acceptable and prohibited materials for Collection in each Container; (4) inform the Customer of the courtesy pick-up on this non-Collection notice; and (5) shall, if possible, include photographic evidence. This notice shall be left on the Container, or gate or door or delivered by email, text or another electronic message. Thereafter, Contractor shall Collect the contaminated Container (or materials at the discretion of Contractor) and transport the material to the Approved Facility.
4. Non-Collection Notices. Upon identification of Prohibited Container Contaminants in a Customer's Container in excess of standards agreed upon by the Parties or Excluded Waste, Contractor shall provide a Non-Collection notice to the Generator, which at a minimum include (1) inform the Customer of the reason(s) for non-Collection; (2) include the date and time the notice was left or issued; (3) notify Customer to correct Contamination; (4) a telephone number at which the Customer may contact Contractor. For notice placement, see information at 3, above.
5. Communication with Customer. Whenever a Container at the premises of a Commercial or multi-Family Customer is not Collected, Contractor shall contact the Customer on the scheduled Collection Day or within forty-eight (48) hours of the scheduled Collection Day by telephone, email, text, or other verbal or electronic message to explain why the Container was not Collected. Whenever a Container is not Collected because of Prohibited Container Contaminants, a Customer service representative shall contact the Customer to discuss and encourage the Customer to adopt proper Discarded materials preparation and separation procedures.
6. Contractor Return for Collection. Upon request from Customer, Contractor shall Collect Containers that received non-Collection notices, per the above, within one (1) Working Day of Customer's request if the request is made at least two (2) Working Days prior to the regularly scheduled Collection Day.

Disposal of Contaminated Materials. If Contractor observes Prohibited Contaminants in a Generator's Containers(s), Contractor may Dispose of the Container contents, provided notice required under Record keeping, above.