

**AMENDMENT NO. 3 TO AGREEMENT AMONG CITY OF GARDEN GROVE,
GARDEN GROVE SANITARY DISTRICT AND REPUBLIC WASTE SERVICES OF
SOUTHERN CALIFORNIA, LLC dba GARDEN GROVE DISPOSAL
FOR SOLID WASTE HANDLING SERVICES
(ORGANIC WASTE)**

This Amendment No. 3 (“Amendment”) to the Agreement for Solid Waste Handling Services is entered into to be effective as of the 24th day of April, 2018, by and among the City of Garden Grove, the Garden Grove Sanitary District, a subsidiary special district formed and existing pursuant to the Sanitary District Act of 1923, California Health and Safety Code Section 6400 et seq., and Republic Waste Services of Southern California, LLC (“Republic”), a Delaware Limited Liability Company dba Garden Grove Disposal. The City and District are hereby collectively referred to as “City.” The City, District and Republic are hereby collectively referred to as the “Parties.”

R E C I T A L S:

A. Effective July 1, 2010, the Parties hereto entered into the Agreement Between City of Garden Grove, Garden Grove Sanitary District and Republic Services of Southern California, LLC dba Garden Grove Disposal for Solid Waste Handling Services (“Agreement”).

B. Pursuant to Section 8.3.4 of the Agreement, Republic is required to design and present a program to the City to comply with any new requirement imposed upon the City or Republic by CalRecycle, or any Federal, State or Local law or regulation, and the Parties are required to meet and confer in good faith to determine a fair and reasonable adjustment to the maximum rates set forth in the Agreement for the implementation of any new source separated program for the collection of any waste material not already covered under the Agreement.

C. In 2014, the State of California enacted AB 1826, requiring the implementation of mandatory commercial organics recycling beginning in 2016, which services require a new source separated program that is not currently contemplated in the Agreement.

D. Pursuant to Recital E of the Agreement, incorporated into the Agreement by reference per Section 1 thereto, the Parties intend that Republic, and not the City, shall be solely responsible for establishing and collecting all charges for Solid Waste Handling Services provided by Republic pursuant to the Agreement.

C O V E N A N T S:

NOW, THEREFORE, for and in consideration of the terms and conditions of this Amendment, the Parties hereby agree as follows:

SECTION 1. Section 2 (Definitions) of the Agreement is hereby amended to include the following definitions:

AB 1826

“AB 1826” means the Organic Waste and Recycling Act of 2014 (Chapter 27, Statutes of 2014 modifying AB 939, the California Integrated Waste Management Act of 1989, Division 30 of the California Public Resources Code (commencing with Section 40000 et seq.), as amended, supplemented, superseded, and replaced from time to time.

Food Waste

“Food Waste” means all kitchen and table food scraps; animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; discarded paper that is contaminated with Food Waste; fruit waste, grain waste, dairy waste, meat, and fish waste, which has been source separated from other Solid Waste. Food Waste is a subset of Organic Waste.

Organic Waste

“Organic Waste” means Food Waste, Green Waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper that is mixed in with food waste.

Organic Waste Processing Facility

“Organic Waste Processing Facility” means a permitted facility where Organic Waste is sorted, mulched or separated for the purposes of Recycling, reuse or composting.

SECTION 2. Section 8.3 of the Agreement is hereby amended to add the following provisions:

8.3.6 Organic Waste Recycling Program for Commercial Premises and Multi-Family Dwelling Customers

(a) Republic shall implement and be responsible for ensuring that the source separated Organic Waste Recycling program meets the requirements of AB 1826. If AB 1826 is subsequently amended and if such amendment requires a modification of the Organic Waste Recycling program in a manner not anticipated by this Agreement, then City and Republic shall meet and confer regarding such modifications as provided in Section 8.3.4 of the Agreement.

(b) Republic shall be responsible to ensure that all Organic Waste is processed using methods that are approved by CalRecycle for Diversion credit.

(c) Republic shall offer Organic Waste Recycling services to all Commercial Premises and Multi-Family Dwellings and City Facilities.

(d) Republic shall offer Organic Waste Recycling services based on the Container size and service frequency as contained in the Rate Schedule in Exhibit 1. The services offered shall include a two-cubic yard bin and a 65-gallon cart, collected one to

three times per week. If CalRecycle determines that mandatory commercial Organic Waste service shall be provided to Customers on or after January 1, 2020 that subscribe to two-cubic yards or more of solid waste service per week, then Republic will also offer a 35-gallon cart at the rate identified in Exhibit 1 for Customers who generate a small amount of Organic Waste.

(e) The method(s) for contacting customers as described in this Amendment, unless otherwise specified, shall be accomplished through means which may include direct mail, email, telephone calls, site visits and/or other methods in Republic's discretion, provided that such methods meet the regulatory requirements of CalRecycle.

(f) In the event Republic encounters a contaminated Organic Waste Container, Republic shall document the contaminated Container using a driver on-board system, forward the message to dispatch and retain photos of the incident. Republic shall advise the Customer that Republic will return the following business day to provide Collection service for the contaminated Container. Republic shall contact and provide education materials to the Customer on appropriate items to be placed in the Organic Waste Container. For each instance of a contaminated Organic Waste Container, Customer shall be charged the fee identified in Exhibit 1.

(g) Republic shall identify and target Commercial Premises that create large amounts of Organic Waste, such as hotels, business parks, and Multi-family Dwelling Customers with significant landscaping waste disposed of in non-recyclable material container(s). Republic shall also target Commercial Premises Customers that have food service operations such as restaurants, grocery stores, hospitals, corporate cafes, bakeries, etc. If necessary or if requested by CalRecycle, Republic shall conduct visual waste audits of Commercial Premises and Multi-Family Dwellings to evaluate the Organic Waste service requirements and service level needs. Republic shall provide access to training materials to train Customer employees such as servers, food preparers, hospitality and maintenance staff, taking into consideration employee turnover, and shift changes. If necessary or if requested by CalRecycle, on an annual basis, Republic shall conduct Customer surveys and onsite waste assessments of Commercial Premises and Multi-Family Dwelling Customers subject to the requirements of AB 1826 that do not receive Republic provided Organic Waste Recycling, utilize an in-house program, donate edible foods to a charitable organization or Recycle using a third party vendor. Republic shall provide copies of waste assessments performed each quarter until January 2020 or later if requested by CalRecycle or City and shall submit copies of all waste assessments as part of the annual report to the City in accordance with Section 23.2 of the Agreement [as amended pursuant to Section 3 of this Amendment]. In the event a Customer that meets the requirements in AB 1826 refuses Republic's Organic Waste Recycling service and does not report to Republic that they achieve Organic Waste Recycling via in-house, food donations, or through a third party Recycling program that meets the requirement under applicable laws, Republic shall provide to the City information including Customer's name, address and contact information on a City approved template for inclusion with State reporting.

(h) Republic, with City support, shall contact and provide outreach to participating Commercial Premises and Multi-Family Dwelling Customers as follows:

- (i) Initial Direct Mailing Outreach to be performed by Republic
 - Upon approval of an Organics Waste collection program, Republic will prepare a multi-lingual letter regarding the requirements of AB 1826 for City approval. Upon receipt of City approval the letter is to be printed using the City's electronic letterhead and mailed or delivered by Republic to all Commercial Premises and Multi-Family Dwelling Customers, informing Customers of the Republic-provided Organic Waste Recycling Program and the requirements for compliance with AB 1826. The letter shall note that participation is mandatory under State law for customers that meet the participation thresholds under AB 1826.
- (ii) Initial Direct Mailing of Compliance Outreach to be performed by Republic
 - Republic will prepare a letter for City approval and send to all non-compliant Customers detailing their non-compliance and annual reporting requirements to CalRecycle. The letter is to be printed using the City's electronic letterhead. Republic will contact all non-compliant Customers identified using the Republic's database. Republic will provide the City a list of all non-compliant Customers, including but not limited to, contact person, service and billing addresses, phone number, email, account notes and any information relating to the previous refusal of Organic Waste Recycling program services to report to CalRecycle.
- (iii) Annual Outreach to be performed by Republic
 - Republic shall contact all Customers that fall under the requirements of AB 1826, but that do not have a CalRecycle approved program in place, and are not in compliance with the requirements set forth in AB 1826.
- (iv) Ongoing Outreach to be performed by Republic
 - Provide Organic Waste Recycling information to all Commercial Premises and Multi-family Dwelling Customers including step by step process; guidelines for new employee training; do's and don'ts of separation; signage examples; source reduction suggestions; links to online City programs/resources; Good Samaritan Law definition; information on environmentally preferable purchasing policies; and resource list of sustainability programs and toolkits from trade organizations like the National Restaurant Association and US Composting Council Curb to Compost Toolkit and/or government agencies like the EPA toolkit for Reducing Food Waste and Packaging and FTC Guidelines on compostable and degradable claims.
 - Provide samples of indoor and outdoor Container options and signage.

- Contact or provide information to help identify Customer’s “startup team” to implement the program and provide long term support.
- If necessary or if requested by Customers, conduct, comprehensive, in-house, multi-lingual trainings with kitchen and janitorial staff at no additional charge.
- Follow-up and monitor to ensure successful participation, which shall include visual audits and additional training when necessary.
- Create solutions for the identified challenges and waste stream specifics.
- Connect Customers with food donation programs where applicable (Senate Bill 1383 requires recovery of twenty percent (20%) of edible food for human consumption that is currently landfilled by 2025).
- Republic shall produce, keep current, and provide information to the public on AB 1826 and identification of Commercial Premises and Multi-Family Dwelling Customers affected by the legislation.
- The information for the Republic provided Organic Waste Recycling program shall be promoted through Republic’s website, mailers, brochures, billing inserts, email content, social media, and online announcements.

SECTION 3. Section 23.2 (Quarterly Reports) of the Agreement is amended to read as follows:

23.2 Quarterly Reports

23.2.1 Minimum Requirement

At a minimum, Republic shall report the following to City on a quarterly basis: the information required in the monthly reports; the complaint summary for the quarter summarized by nature of complaints; copies of promotional and public education materials sent during the quarter; description of Republic outreach activities conducted the previous quarter; and such other information or reports that the City may reasonably request or require. Republic shall, upon demand by City, provide true and accurate copies of landfill disposal (tipping) receipts and similar such documents in order to enable City to verify Republic's quarterly reports.

23.2.2 Quarterly Commercial Premises and Multi-Family Dwellings Organic Waste Recycling Program Reporting Requirements

Republic shall provide the following to the City on a quarterly basis (until January 2020), and annually thereafter, in a format approved by the City:

- The total number of Commercial Premises and Multi-Family Dwelling Customers serviced by the Republic that meet the thresholds of AB 1826.
- The number of these Customers that:
 - Subscribe to the Republic provided Organic Waste Recycling program;
 - Recycle Organic Waste via an in-house program;
 - Donate edible food to charitable organizations;
 - Use a third-party vendor for Organic Waste Recycling; and,
 - Are without a known Organic Waste Recycling program.
- A listing of all contact, surveys and onsite waste assessments performed for customers that are required under State law, but that refuse organics service and copies of onsite waste assessments.
- Contact information for Commercial Premises and Multi-Family Dwellings Customers (as available in the Republic's data base) that do not currently have an Organic Waste Recycling program.
- All documentation provided shall include detailed support.

SECTION 4. Section 24 (Compensation) of the Agreement is hereby amended to add the following provisions:

24.9 Organic Waste Recycling Compensation Adjustment

(A) Republic shall provide Organic Waste Recycling services at rates it sets, charges to, and collects from Customers, which rates are listed in Exhibit A, subject to a rate adjustment to the existing Commercial Solid Waste handling services rates of 3.4 % to be phased-in with two equal increments of 1.7% each as follows: beginning July 1, 2018, Republic will implement a one-time rate increase of 1.7% for Commercial rates in addition to the annual rate adjustment per Section 24 of the Agreement. Republic will subsequently implement an adjustment of 1.7% to Commercial rates on January 1, 2019 in addition to the annual rate adjustment per Section 24 of the Agreement. The sector-wide increase will also be adjusted to include application of the City's Franchise Fee.

(B) The parties acknowledge that effective July 1, 2019 and annually thereafter, Commercial rates will be adjusted for changes in the Organics Waste disposal/processing fee per ton based on the formula in Exhibit 2 hereto - Organic Waste Processing Component Adjustment, except that such formula will not be applied in any year that the Rate Adjustment Rebalancing Formula is applied in accordance with Section 24.9(C) and 24.9(D) below.

(C) Effective July 1, 2022, the Organic Waste Collection rate increases previously implemented will be adjusted based on the Rate Adjustment Rebalancing Formula in Exhibit 3 hereto to reflect the actual level of participation in the program. Republic will provide for City review all data and documentation requested by the City supporting the number of units (tons, hours, container count) and related calculations in Exhibit 3. Such data shall include any allocation methods used to allocate tons or hours to the City from shared organics collection routes in other cities.

(D) If the actual number of tons for the Organic Waste collected under this program in calendar year 2019 exceeds the tonnage threshold of 4,148 tons, then the rebalancing calculation may be performed effective July 1, 2020 upon Republic's written notice to City, if received by the City prior to February 1, 2020, and will be performed again effective July 1, 2021 and July 1, 2022. The rebalancing procedure will not be performed again after July 1, 2022.

(E) The processing cost per ton to be used in Exhibit 2 and Exhibit 3 is based on the tipping fee at the third party's CORE Organic Waste Processing Facility in the City of Orange. If Republic develops its own Organic Waste Processing Facility and proposes to use it for processing Organic Waste generated in the City, and provided that Republic's facility is competitive with market rates, City and Republic shall meet and confer in good faith to determine a fair and reasonable adjustment to the maximum rates set forth on Exhibit A based on the processing cost per ton that reflects the proposed facility's costs, and a method of adjusting the processing cost per ton.

SECTION 5. The "Approved Republic Rate Schedule" in Exhibit A of the Agreement is amended to include the refuse/organics collection rates shown in Exhibit 1.

SECTION 6. Exhibit 2, Organics Waste Processing Component Adjustment, is added to the Agreement.

SECTION 7. Exhibit 3, Rebalancing Mechanism, is added to the Agreement.

SECTION 8. Exhibit 4, Documentation of the Rebalancing Adjustment Factor, is added to the Agreement.

SECTION 9. Except as expressly set forth herein, nothing in this Amendment shall affect or modify any other of the provisions of the Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first above written.

CITY OF GARDEN GROVE

By: _____
Scott C. Stiles, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

GARDEN GROVE SANITARY DISTRICT

By: _____
Scott C. Stiles, General Manager

ATTEST:

Secretary

APPROVED AS TO FORM:

General Counsel

REPUBLIC WASTE SERVICES OF
SOUTHERN CALIFORNIA, LLC dba
GARDEN GROVE DISPOSAL

(Corporate Seal)

By: _____

Printed Name

Its: President

By: _____

Printed Name

Its: Secretary