

**FIRST AMENDMENT TO THIRD AMENDED AND RESTATED AGREEMENT BETWEEN
CITY OF ROHNERT PARK AND ROHNERT PARK DISPOSAL, INCORPORATED FOR
REFUSE, RECYCLABLE MATERIALS, COMPOSTABLE MATERIALS AND STREET
SWEEPING SERVICES**

This First Amendment ("Amendment") to the Third Amended and Restated Agreement for Refuse, Recyclable Materials, Compostable Materials and Street Sweeping Services, dated as of November 28, 2017, by and between the City of Rohnert Park, ("City") and Recology Sonoma Marin, a California corporation ("Recology"), as assignee of Rohnert Park Disposal, Inc. ("RPDI") (collectively, City and Recology are "Parties").

WHEREAS, City and RPDI were parties to the Third Amended and Restated Agreement for Refuse, Recyclable Materials, Compostable Materials and Street Sweeping Services, dated as of November 28, 2017 (the "Franchise Agreement");

WHEREAS, as part of the Assignment and Assumption Agreement, dated as of November 28, 2017, RPDI assigned the Franchise Agreement to Recology with consent of City;

WHEREAS, the Parties now desire to amend certain provisions of the Franchise Agreement to implement a low income discount program, provide for program funding, and restructure the fee provisions of the Franchise Agreement;

NOW, THEREFORE, in consideration of the mutual benefits accruing to the Parties and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Amendment to Add Low Income Discount Program. Effective July 1, 2020, the Franchise Agreement is amended to add the following Section 8.05 "Low Income Discount Program", to read as follows:

8.05. LOW INCOME DISCOUNT PROGRAM

8.05.1 Program.

Contractor shall provide a fifteen percent (15%) discount off Single-Family Residential Customer Rates to qualified Single-Family Residential customers ("Discount"), commencing on July 1, 2020. To qualify, the customer must: (a) live in a Single-Family Residence that is billed separately (not combined with any other dwelling unit); and (b) provide Contractor with a copy of the customer's PG&E bill (or other suitable documentation of a type approved in advance by City) verifying that the customer is enrolled in PG&E's CARE Program. Participating customers shall be required by Contractor to promptly notify it if they are no longer enrolled in the CARE Program. Contractor shall require participating customers to reconfirm their eligibility for the Discount by submitting their most recent PG&E bill to Contractor annually, so that they receive no more than twelve (12) months of discounted rates between each eligibility determination (except for the retroactively-applied Discount referred to in the next sentence). Contractor shall begin applying the Discount to customer invoices issued after the customer qualifies, provided, however, that qualifying customers who submit applications on or before August 31, 2020 shall have the Discount applied retroactively to charges for services provided on or after July 1, 2020.

8.05.2 Program Funding.

The Discount shall be fully funded by City through unrestricted revenues available to the City, to be paid by the City to Contractor on a monthly basis on a mutually agreed date earlier than the date City Fee payments are due under Section 7.03. The amount of each monthly payment shall equal the total dollar amount of the Discounts provided on customer invoices issued in the previous month. In the event that the City does not make payment by the agreed date, Contractor shall be entitled to a dollar-for-dollar reduction from City Fee payments required under Section 7.01 and 7.03. In such event, Contractor shall be entitled to offset the dollar amount of the Discount against the amount of the City Fee that would otherwise be payable pursuant to Sections 7.01 and 7.03. Contractor shall apply such offsets on a monthly basis, reducing the dollar amount of the monthly City Fee payment by the dollar amount of the Discounts provided on customer invoices issued in the previous month. Contractor shall report to City the amount of such offsets on a monthly basis, at the time Contractor submits the City Fee payment. Contractor shall also include in its annual report a summary of the number of customers receiving the Discount each month, their service levels, and the total monthly dollar amount of the Discount.

2. Amendment of Fees. Effective July 1, 2020, Section 7.01 "Contractor's Payments to City" of the Franchise Agreement is amended to read in its entirety as follows:

7.01 CONTRACTOR'S PAYMENTS TO CITY

In consideration of the rights provided Contractor herein, Contractor shall make the following payments to the City:

Contractor shall pay City a fee of fifteen percent (15%) of Gross Revenues under this Agreement (the "City Fee"), representing a franchise fee for the exclusive rights granted pursuant to this agreement to provide refuse services in the City of Rohnert, and a regulatory fee for related AB 939 compliance and diversion. The City and Contractor agree that the City Fee (1) represents the result of bona fide negotiations between the City and Contractor, and (2) is reasonably related to the value of the rights granted herein, which includes but is not limited to the use of City property, City streets and rights of way, and staff resources, and (3) is in part a regulatory fee to recoup those regulatory costs incurred by the City for preparing, adopting, and implementing the Source Reduction and Recycling and Household Hazardous Waste Elements required by AB 939, including costs of inspection, staff time, and monitoring.

3. Conforming Changes. Effective July 1, 2020, the Franchise Agreement is amended to replace all remaining instances of "Franchise Fee" with "City Fee" in Sections 1.34, Exhibit N, and Exhibit O-2 and to delete all remaining instances of "AB 939 Compliance and Diversion Fee" in Exhibit N and Exhibit O-2, and delete all instances to "Refuse Vehicle Fee" in Exhibit N and Exhibit O-2.
4. No Retroactivity. For avoidance of doubt, nothing in this Amendment shall be intended to impose any retroactive obligation on any Party.
5. Multiple Originals; Counterparts. This Amendment may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts or via DocuSign.

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

City of Rohnert Park

By: Marie Andrews
on behalf of:
Darrin Jenkins
Name: Darrin Jenkins
Title: City Manager
Date: 7/9/20

Recology Sonoma Marin

By: Michael J. Sangiacomo
Name: Michael J. Sangiacomo
Title: President & CEO
Date: 6/16/2020 | 1:41 PM PDT

APPROVED AS TO FORM:


City Attorney

By: Catherine Langridge
Name: Catherine Langridge
Title: Senior Vice President & CFO
Date: 6/17/2020 | 10:05 PM PDT

ATTEST:


~~JoAnne Buergler, City Clerk~~
Sylvia Lopez Cevalos, Acting City Clerk



City Council

Joseph T. Callinan
Mayor

Jake Mackenzie
Vice Mayor

Gina Belforte
Susan Hollingsworth Adams
Pam Stafford
Councilmembers

Darrin Jenkins
City Manager

Don Schwartz
Assistant City Manager

Michelle Marchetta Kenyon
City Attorney

Sergio A. Rudin
Assistant City Attorney

JoAnne M. Buerger
City Clerk

Tim Mattos
Director of Public Safety

John McArthur
*Director of Public Works and
Community Services*

Mary Grace Pawson
*Director of
Development Services*

Victoria Perrault
Human Resources Director

April 9, 2020

To whom it may concern:

Pursuant to Section 3.5.2 of the Purchasing Policy adopted by Resolution on No. 2016-051 on May 24, 2016 and pursuant to Section 2.1.1. of the Emergency Purchasing Policy, I hereby delegate the physical signing of a contract to Marie Andrews, Administrative Assistant of the City Manager and City Council.

For clarification purposes, the Contract signature authority shall be aligned with that for purchasing limits, as designated in the Rohnert Park Municipal Code, Section 3.04, and as per contract. Contracts regarding title/transfer of real property are excluded from this authorization and pursuant to the purchasing policy, they must be signed by the Mayor or designee.

Following written confirmation via electronic mail of my review and approval, Mrs. Andrews, as my designee, may execute any contract for which authorization has been granted to me pursuant to Ordinance, Resolution, or other action of the City Council, providing sufficient unencumbered funds exist. My written approval to execute the contract shall be affixed to the contract and it shall be kept for the life of the contract in accordance with the City's retention schedule.

Sincerely,

Darrin Jenkins,
City Manager

cc: Michelle Marchetta Kenyon, City Attorney
Sergio Rudin, Assistant City Attorney