

**FIRST AMENDMENT TO AGREEMENT
BETWEEN COSTA MESA SANITARY DISTRICT AND CR&R
INCORPORATED**

This First Amendment to the Agreement between Costa Mesa Sanitary District and CR&R Incorporated (the “Amendment”) is entered into this 27 day of January, 2023, by and between Costa Mesa Sanitary District (the “District”) and CR&R Incorporated, a California corporation (“Hauler”).

RECITALS

WHEREAS, the District and Hauler previously entered into that Agreement dated July 1, 2018 to provide residential solid waste collection services within the District limits (the “Agreement”); and,

WHEREAS, the State of California has found and declared that the amount of Solid Waste generated in California, coupled with diminishing Disposal capacity and interest in minimizing potential environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of the California Integrated Waste Management Act of 1989 (AB 939) (California Public Resources Code Section 40000, et seq.) and subsequent related legislation including, but not limited to: the Jobs and Recycling Act of 2011 (AB 341), the Event and Venue Recycling Act of 2004 (AB 2176), SB 1016 (Chapter 343, Statutes of 2008), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), Green Material Used as Alternative Daily Cover of 2014 (AB1594), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), directed the responsible State agency, and all local agencies, to promote a reduction in Landfill Disposal and to maximize the use of feasible waste reduction, Reuse, Recycling, and composting options in order to reduce the amount of material that must be Disposed; and,

WHEREAS, SB 1383 establishes regulatory requirements for jurisdictions, Customers, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and

WHEREAS, SB 1383 Regulations require the District to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and, the District has chosen to delegate some of its responsibilities to the Hauler, acting as the District’s designee, and Hauler desires to take on these responsibilities; and

WHEREAS, the District and Hauler desire to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the promises stated above and the terms, conditions, covenants, and agreements contained herein, the Parties do hereby agree as follows:

1. AMENDMENT TO ARTICLE 1.

The definitions contained in Article 1 of the Agreement, are hereby supplemented, amended and/or superseded as set forth herein. Definitions otherwise contained in the Agreement and/or any previous amendment(s), but which are not addressed below, shall remain the same.

“Blue Container” has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and Collection of Source Separated Recyclable Materials (SSBCOW).

“California Code of Regulations” or **“CCR”** means the State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR, Division 7, Chapter 12” refers to Title 14, Division 7, Chapter 12 of the California Code of Regulations).

“CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on jurisdictions and other regulated entities.

“Collect” means the act of taking physical possession of Solid Waste within the District for Recycling, Processing or Disposal.

“Compostable Plastics” or **“Compostable Plastic”** means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

“Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), as may be amended from time to time.

“Customer” means the person who receives the Hauler's Collection services and to whom the Hauler submits its billing invoice to and collects payment from District for Collection services provided to a residence.

“Disposal” or **“Dispose”** means the final disposition of any Solid Waste Collected by the Hauler at a Facility as provided herein.

“Diversion (or any variation thereof including “Divert”)” means activities which reduce or eliminate Discarded Materials from Disposal, including, but not limited to, source reduction, Reuse, salvage, Recycling, and composting.

“Edible Food” means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

“Excluded Waste” means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, Medical Waste, infectious, regulated radioactive waste, and toxic

substances or material that Facility operator(s) reasonably believe(s) would, as a result of or upon acceptance, Transfer, Processing, or Disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be Disposed of in Class III Landfills or accepted at the Facility by permit conditions, waste that in Hauler's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Hauler or District to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe Collection, Processing, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

"Facility" means any plant, site, or operation used for the purpose of handling Solid Waste, including, but not limited to, Disposal, Recycling, and Processing facilities or operations.

"Food Recovery" means actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

"Food Scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, rice, beans, pasta, bread, cheese, eggshells and fats, oil, and grease (FOG).

"Food-Soiled Paper" means compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk containers that are not coated with wax or plastic.

"Food Waste" means Source Separated Food Scraps, Food-Soiled Paper, and Compostable Plastics. Food Waste is a subset of SSGCOW. Edible Food separated for Food Recovery shall not be considered Food Waste.

"Gray Container" has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and Collection of Gray Container Waste.

"Gray Container Waste" means Solid Waste that is collected in a Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

"Green Container" has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste (SSGCOW).

"Hauler Route(s)" means the designated itinerary or sequence of stops for each segment of the District's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

"Non-Compostable Paper" includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

"Non-Organic Recyclables" means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics, and glass, or as otherwise defined in

14 CCR Section 18982(a)(43). Non-Organic Recyclables are a subset of Source Separated Recyclable Materials.

“Organic Waste” means Solid Waste containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Yard Trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

“Paper Products” include, but are not limited to, paper janitorial supplies, containers, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).

“Performance-based Compliance Approach” means the method of complying with the SB 1383 Regulations through implementation of a collection system, programs, and policies in accordance with 14 CCR, Division 7, Chapter 12, Article 17, or as otherwise defined by 18982(a)(52.5), and all associated requirements.

“Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).

“Processing” means the controlled separation, recovery, volume reduction, conversion, or Recycling of Solid Waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).

“Prohibited Container Contaminants” means the following: (i) Discarded Materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the District’s Blue Container; (ii) Discarded Materials placed in the Green Container that are not identified as acceptable SSGCOW for the District’s Green Container; (iii) Discarded Materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or SSGCOW to be placed in District’s Green Container and/or Blue Container; and (iv) Excluded Waste placed in any Container.

“Recycle” or **“Recycling”** means the process of Collecting, sorting, cleansing, treating, and reconfiguring materials for the purpose of returning them to the economic mainstream in the form of raw material for new, Reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace. Recycling includes processes deemed to constitute a reduction of Landfill Disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or transformation as defined in Public Resources Code Section 40201.

“Reuse” or any variation thereof, means the use, in the same, or similar, form as it was produced, of a material which might otherwise be discarded, or as otherwise defined in 14 CCR Section 17402.5(b)(2).

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

“SB 1383 Regulations” or **“SB 1383 Regulatory”** refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

“Service Level” refers to the number and size of a Customer’s Container(s) and the frequency of Collection service, as well as ancillary services such as lock/unlock service, Container push/pull service, etc.

“Source Separated” means materials, including commingled Recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or Processing those materials for Recycling or Reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the Agreement, Source Separated shall include separation of materials by the Customer into different Containers for the purpose of Collection such that Source Separated materials are separated from Gray Container Waste and other Solid Waste for the purposes of Collection and Processing.

“Source Separated Blue Container Organic Waste” or **“SSBCOW”** means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.5).

“Source Separated Green Container Organic Waste” or **“SSGCOW”** means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the Customer, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and SSBCOW.

“Standard Compliance Approach” means the method for complying with the SB 1383 Regulations through implementation of a collection system pursuant to 14 CCR, Division 7, Chapter 12, Article 3, and all associated program and policy requirements.

“Yard Trimmings” means types of SSGCOW resulting from normal yard and landscaping installation, maintenance, or removal that the Customers Source Separate and set out in Green Containers for Collection for the purpose of Processing by the Hauler.

2. AMENDMENTS TO ARTICLE 2.

Section 2.2.2 of the Agreement is amended to read as follows:

“The term of this Agreement during which Hauler will provide collection services shall be ten (10) years (the "Initial Term") through June 30, 2028, subject to extension as provided in Section 2.2.3. Notwithstanding the foregoing, the unexcused failure or refusal of Hauler to perform any material term, covenant, obligation, or condition contained in this Agreement shall give rise to the right, in favor of District, for earlier termination of this Agreement for cause in accordance with the procedures contained herein.

Section 2.2.3 of the Agreement is amended to read as follows:

“The term of this Agreement may be extended for an additional two (2) five-year options upon mutual agreement of the parties.”

3. AMENDMENTS TO ARTICLE 3.

Section 3.1.2.1

D. The parties agree that the Hauler shall complete a cart inventory/occupancy count by January 2028. Conducting an inventory every five (5) years for the life of the agreement will ensure that everyone’s records are accurate and new accounts are identified.

Section 3.4 Consumer Price Index Adjustments is amended to read:

Hauler may propose an adjustment to the maximum rates as set forth in Exhibit B by multiplying each rate by the percentage change in the CPI for All Urban Consumers in the Los Angeles Area, not seasonally adjusted (CPI-U) – Los Angeles-Long Beach- Anaheim for the twelve (12) month period ending in February. For the term of the agreement, the CPI request is capped at five percent (5%) per year. The tonnage rates in Exhibit B will need to be adjusted before a three Container Collection program is implemented on or before December 31, 2024. The request must be received by the District no later than April 1 of each year. Hauler shall submit to the District’s Finance Department all necessary information to justify the requested CPI adjustment. Hauler agrees and acknowledges that District is entitled to conduct an independent review of all information submitted by Hauler to justify Hauler’s requested rate increase. To justify an increase Hauler shall show how it has been affected by the CPI increase.

The District shall have discretion to deny the request for increase based on its reasonable judgment based on substantial evidence, including but not limited to, District revenues being down, the CPI increase being negative or not significant, or other action by federal, state or local agencies. The denial of the increase shall not be based on poor performance, as it is intended by the parties that the liquidated damages provisions are adequate to address performance. Material poor

performance may be grounds for termination of the Agreement, as provided elsewhere in the Agreement.”

Section 3.4.1 is amended to read as follows:

HAULER shall make available to DISTRICT documentation stating HAULER’s profit margin with respect to the services provided in this Agreement for the year ended in February that coincides with the period for which HAULER is requesting a rate increase. HAULER agrees that DISTRICT shall have access to underlying system-generated data to support HAULER’s calculation of profit margin. This underlying data includes detailed support for revenue, expenses, and methodology for any allocation of corporate and regional indirect costs, as well as any other overhead or indirect costs allocated to DISTRICT. DISTRICT shall have the right to access any support for documentation at the transaction level as it deems necessary. The result of the DISTRICT’s review shall not become a public record by such disclosure. The parties agree that DISTRICT and its officers, agents, or employees shall have access to the HAULER’s financial information at HAULER’s facility in a reasonable comfortable area with table and work area.

4. AMENDMENT TO SECTION 4.2.

Section 4.2 of the Agreement is amended to read as follows:

“Hauler shall provide sufficient programs and services to ensure the District will meet or exceed the diversion goals (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in AB 939, AB 341, AB 1594, AB 1826, and SB 1383.

5. AMENDMENT TO ARTICLE 5.

The provisions of Article 5 of the Agreement are hereby supplemented, amended and/or superseded as set forth herein, as applicable. Provisions otherwise contained in the Agreement, but which are not addressed below, shall remain the same:

General. No later than [December 31, 2024], Hauler shall provide a three-Container Collection program for the separate Collection of Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste as specified in this Agreement, using Containers that comply with the requirements of this Agreement and SB 1383 Regulations. Hauler shall not knowingly Collect Blue, Green, or Gray Containers that include Prohibited Container Contaminants. The three containers shall consist of (i) one 65-gallon existing mixed waste container (black lids) re-labeled as a Gray Container (with the current second mixed waste container to be removed), (ii) one new 90-gallon Blue Container with RFID code, and (iii) one 65-gallon Green Container. Customers may request a second Green Container at no additional cost. Customers will be charged a fee for a second trash and/or recycling cart and for a third and more

Green Containers. Upon request by District and/or by customer, hauler will replace Gray Container and/or Green Container with a 35, 65, or 90-gallon container.

Cart Labels. All carts issued to CMSD customers will have interchangeable labels, not be embossed on the cart lids. The labels will be designed and printed by Hauler and be approved by the District.

Source Separated Recyclable Materials Collection (Blue Container). Hauler shall provide Blue Containers to Customers for Collection of Source Separated Recyclable Materials and shall provide Source Separated Recyclable Materials Collection service. All single and multi-family dwellings serviced by the District will be provided a Blue Container. Hauler shall Collect Source Separated Recyclable Materials on a separate route and transport them to the CR&R Transfer and Material Recovery Facility in Stanton, California for Processing in accordance with SB 1383 Regulations.

[Source Separated Recyclable Materials that are to be accepted for Collection in the Source Separated Recyclable Materials Collection program include the following: (i) Non-Organic Recyclables such as: aluminum, glass bottles and jars, rigid plastics (marked # 1 through # 7), and tin and bi-metal cans; and (ii) SSGCOW such as: Paper Products, Printing and Writing Papers, wood and dry lumber.]

SSGCOW Collection (Green Container). Hauler shall provide Green Containers to Customers for Collection of SSGCOW and shall provide SSGCOW Collection service. Hauler shall Transport the SSGCOW to the CR&R Anaerobic Digestion Facility in Perris, California for Diversion.

[SSGCOW that are to be accepted for Collection in the SSGCOW Collection program include the following: Food Scraps; Food-Soiled Paper; Yard Trimmings, which are defined below; and Compostable Plastics. Carpets, non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not knowingly be Collected in the Green Containers. Yard Trimmings that are to be accepted for Collection in the SSGCOW Collection program include the following: green trimmings, grass, weeds, flowers, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees weighing no more than 50lbs, and other types of SSGCOW resulting from normal yard and landscaping installation, maintenance, or removal, provided all SSGCOW fits inside the Green Container with the lid closed and does not exceed 150 pounds.]

[Hauler may Collect compliant Compostable Plastics, as defined, in the Green Containers for Processing. At least three (3) months prior to the commencement of the Collection of Compostable Plastics in the SSGCOW program, Hauler shall provide written notification to the District whether the Facility can or cannot Process and recover these Compostable Plastics in accordance with SB 1383 Regulations. If the Facility can process and recover Compostable Plastics, and Hauler elects to Collect Compostable Plastics in the Green Container, then Hauler shall provide annual written notification to the District that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If the Facility cannot process and recover Compostable Plastics, then Hauler will not Collect Compostable Plastics in the Green Container. Hauler and District agree to provide customers with advance notice and education to allow this to occur successfully.]

Gray Container Waste Collection. Hauler shall provide Gray Containers to Customers for Collection of Gray Container Waste, and shall provide Gray Container Waste Collection service. Hauler shall Transport the Gray Container Waste to an Orange County landfill Facility in accordance with the SB 1383 Regulations and as provided herein. Prohibited Container Contaminants shall not knowingly be Collected in the Gray Containers.

The following provision is added to Section 5.3 of the Agreement:

“The average age of vehicle fleet shall not exceed seven (7) years at any time during the term of this agreement and any extension to this term agreed to by both parties. All vehicles shall be equipped with a collision avoidance System and technology to capture driver, route and service confirmation in real time to be accessed by customer service and the District.” Hauler will not deviate from their service hours for collecting a Blue Container because additional vehicles are required to provide the service.

Hauler has agreed to provide the Sustainability Coordinator assigned to the District and Hauler vehicle to conduct outreach. List of vehicles to be provided by the Hauler are listed in Exhibit D and E.

Section 5.9 of the Agreement is amended as follows:

5.9 Office Hours

Office hours shall be at least 8:00 a.m. to 5:00 p.m., Monday - Friday, excluding holidays. A responsible and qualified person shall be available by phone. A local phone number (949) 646-4617 will be available to Costa Mesa residents during all regular hours. Services shall be adequate to handle all calls on the busiest days. A recorder with voice mail message with next business day follow up shall be available for afterhours calls, with the ability for DISTRICT personnel to contact HAULER's Operations Manager after hours by cell phone or other device that will achieve contact after hours.

Section 5.14 of the Agreement is amended as follows:

District and Hauler shall designate an individual to act as liaison between the District and Hauler as the respective agents of each which are named as follows:

District

Scott Carroll, General Manager

290 Paularino Ave

Costa Mesa, CA 92626

949-645-8400

Hauler

Julie Barreda, Regional Vice President

11292 Western Ave

Stanton, CA 90680

714-248-9335

Hauler shall provide District with a cell phone number that is provided to its liaison, that is the cell phone number that is carried off-duty as well as on-duty. District shall not share that cell phone number as a general number for the public, but said number will only be kept by District's liaison person.

6. CONTAMINATION MONITORING.

This amendment is not replacing existing sections of the 2018 Agreement. Indemnification and CERCLA obligations remain, and Contamination Monitoring is an additional subject that has also utilized Section 6. This Agreement contemplates a new integrated agreement that harmonizes these inconsistencies.

A. Actions upon Identification of Prohibited Container Contaminants.

Upon finding Prohibited Container Contaminants in a Container, Hauler shall follow the protocols set forth in this Section.

1. **Record Keeping.** The driver or other Hauler representative shall record each event of identification of Prohibited Container Contaminants in a written log or in the on-board computer system including date, time, Customer's address, type of Container (Blue, Green, or Gray Container). The records shall be easily understandable to District staff. Hauler will also keep the following records:

- a. Organic waste collection amounts and contamination levels
- b. Education and outreach provided to customers
- c. Contamination enforcement activities
- d. Complaints and investigations, and their resolutions
- e. Program(s) provided and any alterations thereto (must have written approval from the District and any alteration).

2. **Courtesy Pick-Up Notices.** Upon identification of Prohibited Container Contaminants in a Customer's Container, Hauler shall provide the Customer a courtesy pick-up notice. The courtesy pick-up notification shall: (i) inform the Customer of the observed presence of Prohibited Container Contaminants; (ii) include the date and time the Prohibited Container Contaminants were observed; (iii) include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in the Blue Container, Green Container, and/or Gray Container; (iv) inform the Customer of the courtesy pick-up of the contaminated materials on this occasion with information that following three consecutive instances of Prohibited Container Contaminants within a twelve-month time period, Hauler may assess contamination Processing fees; and, (v) may include photographic evidence.

The first courtesy pickup notice in any twelve-month period shall be given by way

of a yellow-colored tag attached to or adhered to the Customer's contaminated Containers placed on the container. The second courtesy pickup notice in any twelve-month period shall be given by way of a red-colored tag attached to or adhered to the Customer's contaminated Containers placed on the container. The third courtesy pickup notice in any twelve-month period shall be given by way of a letter sent to the Customer service address.

3. **Notice of Assessment of Contamination Processing Fees.** If the Hauler observes Prohibited Container Contaminants in a Customer's Container on more than three occasions within a twelve-month time period and issued courtesy pick-up notices on each of those occasions, the Hauler may impose a contamination Processing fee as stated in Exhibit C. Hauler shall notify the District in its monthly report of Customers for which contamination Processing fees were assessed. Hauler shall leave a contamination Processing fee notice attached to or adhered to the Customers' contaminated Containers; at the Premises' door or gate; or, subject to District's approval, may deliver the notice by mail, e-mail, text message, or other electronic message. Hauler shall allow an opportunity for the recipient to contest the fee. The contamination Processing fee notice shall describe the specific material(s) of issue, explain how to correct future set outs, and indicate that the Customer will be charged a contamination Processing fee. The Hauler will generate an invoice for the contamination Processing fee and mail it to the property owner of record. Revenues from the contamination processing fee shall be shared in the same proportion and manner as additional container charges pursuant to Section 5.2.2 (20% by the Hauler and 80% by the District). At any time, District may determine to issue an Administrative Civil Fine for contamination offenses in accordance with the procedures set forth in Government Code Section 53069.4.

B. Disposal of Contaminated Materials. If the Hauler observes Prohibited Container Contaminants in a Customer's Container(s), Hauler may Dispose of the Container's contents, provided Hauler complies with the noticing requirements in subsection A above.

7. ROUTE REVIEWS AND WASTE EVALUATIONS.

Hauler shall meet its SB 1383 Regulations contamination monitoring requirements commencing January 1, 2023, by using Route Reviews ; provided however, that if Hauler complies with SB 1383 Regulations using a Performance-based Compliance Approach, it shall monitor containers using waste evaluations, as outlined herein:

A. Route Reviews

1. Hauler shall, at its sole expense, conduct Hauler Route reviews for Prohibited Container Contaminants in Collection Containers in a manner that is deemed safe by the Hauler; is approved by the District; is conducted in a manner that results in all Hauler Routes being reviewed annually, and is consistent and in accordance with SB 1383 Regulations. Containers may be randomly selected along the Hauler Route. This Section should not be construed to require that every container on a Hauler Route must be sampled annually.

2. Upon finding Prohibited Container Contaminants in the Container, Hauler shall follow the contamination monitoring noticing procedures in Section 6 of this Amendment.

C. Recordkeeping Requirements. Hauler shall maintain all applicable records required under SB 1383 Regulations, and report to the District on a monthly basis on contamination monitoring activities, route reviews and/or waste evaluations, and actions taken. Hauler agrees to provide data from their smartphone app (Audit Buddy) as required by the District.

D. Alternative Compliance. Nothing in this section shall prohibit Hauler from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time, and provided that District is notified and does not reasonably object.

8. AMENDMENT TO ARTICLE 7.

The following Section 7.3 is added to the Agreement:

7.3 Liquidated Damages

If Hauler fails to achieve certain collection reliability standards, the District and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which the District will suffer. Therefore, the parties agree that the liquidated damage amounts described in Exhibit "A" attached hereto, represent a reasonable estimate of the amount of such damages for such specific breaches, considering all of the circumstances, including the relationship of the sums to the range of harm to the District that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. These liquidated damages are agreed to pursuant to the alternate authority of a public project for inconvenience to the public (Government code section 53069.85) and as alternatively provided in Civil Code Section 1671. By initialing hereafter Hauler acknowledges the difficulty in calculating actual damages and agrees to those set forth in Exhibit "A."

Liquidated damages are subject to be increased or decreased yearly on July 1 according to the percentage change in the CPI for All Urban Consumers in the Los Angeles Area, not seasonally adjusted (CPI-U) – Los Angeles – Long Beach – Anaheim for the twelve-month period ending the February immediately prior to the applicable adjustment date.

9. AMENDMENT TO SECTION 8.3.

The following provision is added to Section 8.3 of the Agreement:

"Hauler shall not collect Solid Waste near schools within the District between the hours of 7:30 am. and 9:00 a.m. or between the hours of 1:00 p.m. and 3:00 p.m.

10. AMENDMENT TO ARTICLE 9.

The following shall be added to Section 9.1.1 of the Agreement:

The District's annual Christmas tree recycling program shall commence after New Year's Day, for approximately twelve (12) days, without cost to District. Daily collection of Christmas tree's placed curbside will be transported to the AD facility for recycling. The District shall pay for the recycling of tree's, but not for collection.

The District shall be allowed to hire a third-party contractor to assist with the annual Christmas Tree Collection program to avoid delays experienced in the past. Hauler is to reimburse the District 100% of the collection and disposal fees of the third-party contractor.

The following Section 9.1.9 is added to the agreement:

9.1.9 Community Shredding Events

Hauler shall advertise and conduct two (2) shred events each calendar year during the Term. The first shred event shall be held during the first six (6) months of calendar year 2023 and the second event shall be held during the second six (6) months of calendar year 2023. During each shredding event, Residents of District may bring an unlimited quantity of paper for shredding. Hauler shall arrange the in-District location(s) for such events and shall provide all required labor, equipment, traffic control and other needed elements for such events. At Hauler's discretion, or if so directed by District, Hauler may require participants to show evidence of residence within the District (for example by providing a driver's license, utility bill or other documentation that the Customer resides within the District's service area). Event dates shall be mutually agreed to by the District and the Hauler. Hauler shall advertise the events through its website and through mailings and other public outreach methods described in Section 4 of this Attachment B. If Hauler or District chooses to require proof of District residency at the events, Hauler shall include this requirement in all public education materials prior to each community shredding event.

Hauler shall ensure that all paper delivered by Customers to the community shredding events is properly shredded and Recycled. Hauler shall provide a report to the District within thirty (30) days after each event listing the number of participants and the quantity of paper received, shredded, and Recycled as well as the name of the subHauler used for the shredding/secured destruction and recycling of the paper. Hauler shall provide the community shredding events at no additional cost to the District or to Customers.

11. CART INVENTORY.

Hauler will conduct an inventory control program to determine the number of containers at each household. Hauler will implement user verification by mailing letters to residents and encouraging them to verify the number of carts in their possession by using an online system. Each resident will have a unique account number assigned to him/her for identity purposes and to log into the system. Hauler and District will collaborate on the parameters for an audit/user verification program that will include having cart serial numbers assigned to households.

12. EDUCATION AND OUTREACH.

Hauler shall continue to provide education and outreach programs pursuant to Section 9.2 and 9.3 of the Agreement. Hauler shall comply with all applicable public education and outreach record keeping and reporting requirements as provided by SB 1383 and the SB 1383 Regulations.

Outreach efforts will include, but not limited to direct mail, cart hangers, knock and talk, and lid flipping auditing. Hauler and the District will equally share the cost of performing a biennial community wide citizen survey.

13. PROCUREMENT.

Hauler will assist the District in obtaining compost and other by-products of organics recycling that can be used and thereby divert organics from going to the landfill. Hauler will provide District with a Renewable Natural Gas (RNG) procurement allocation consistent with its usage in collection activities for the District. Hauler agrees that discontinuation of RNG use in collection vehicles is a material change that must be agreed to by both parties.

14. CUSTOMER WAIVER PROGRAM COORDINATION.

General. In accordance with SB 1383 Regulations and the [District Code], the District may grant waivers (de minimis, physical space or Collection frequency) to Customers that impact the scope of Hauler's provision of service for those Customers. Waivers issued shall be subject to compliance with SB 1383 Regulatory requirements, pursuant to 14 CCR Section 18984.11. If using a Performance-based Compliance Approach, the District agrees it will only grant waivers if at least ninety percent (90%) of Customers (including Multi-Family Customers) participate in the three-Container Collection program.

Requests Submitted to Hauler. Customers may submit requests for de minimis waivers, physical space waivers, and Collection frequency waivers to the Hauler. Hauler shall within ten (10) days review the Customer's waiver application and inspect the Customer's Premises to verify the accuracy of the application. Hauler shall provide documentation of the inspection, including the Hauler's recommendation to approve or deny the waiver request, and send this information to the District within ten (10) days of receipt of the Customer's waiver application for the District's review and approval. The District ultimately retains the right to approve or deny any application, regardless of the Hauler's recommendation. Hauler shall report information regarding waivers reviewed on a monthly basis.

Hauler Change in Customers' Service Levels. When the District grants a waiver to a Customer, the District shall notify the Hauler within three (3) days of the waiver approval with information on the Customer and any changes to the Service Level or Collection service requirements for the Customer. Hauler shall have three (3) days to modify the Customer's Service Level and billing statement, as needed.

Reverification of Waivers. It shall be the responsibility of the Hauler to verify that the Customers with de minimis, physical space constraint, or Collection frequency waivers continue to meet the waiver requirements set forth in this Section. Hauler shall conduct such reverifications of waivers through inspection of each Customer's Premises and review of applicable records at least once every five (5) years for de minimis and physical space constraint waivers. Hauler shall maintain a record of each waiver verification and provide a [monthly report] to the District documenting the waiver reverifications performed and recommendations to the District on those

waivers that Hauler concludes are no longer warranted. The District shall make a final determination of the waiver eligibility of Customers.

Hauler Recordkeeping of Customers Granted Waivers. Upon Hauler request, no more than four (4) times per year, the District shall provide Hauler an updated listing of waivers approved by the District, including the Customers' names, mailing address, service address, and type of waiver. Hauler shall maintain waiver-related records and report on waiver verifications, as required herein.

15. INSPECTION AND ENFORCEMENT.

Hauler shall assist the District with and/or conduct applicable inspections and enforcement, to the extent delegable, as required by SB 1383 Regulations.

Hauler shall maintain all applicable records from inspection, investigations, and enforcement in accordance with SB 1383 Regulations.

16. PROVISION FOR RECOVERED ORGANIC WASTE PRODUCT.

Hauler agrees to coordinate and cooperate with the District to meet its Organic Waste produce procurement target, as required by SB 1383 Regulations.

17. RECORDKEEPING AND REPORTING.

Hauler shall maintain all applicable records and assist the District in meeting all applicable reporting, as required by the SB 1383 Regulations. Hauler shall allow District to audit and inspect such records and reports upon reasonable request. Hauler shall allow District access to their GPS technology that captures driver, route and service information in real-time to assist with missed collection claims.

18. HAULER PERFORMANCE REVIEW.

District agrees not use the benchmarks to approve or deny hauler's request for a rate adjustment. However, District will have the right to deny such request if Hauler receives "Unsatisfactory" in their annual performance evaluation.

19. EXHIBITS

Exhibits A, B, C, D, and E are hereby amended to read in its entirety as attached hereto.

20. OTHER TERMS AND CONDITIONS UNCHANGED

Except as expressly amended by the Amendment, all other terms and conditions of the Agreement shall remain unchanged. In the event of any conflict between the terms and conditions

of this Amendment and the terms and conditions of the Agreement and/or any previous amendment thereto, the terms and conditions of this Amendment shall prevail and control.

21. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and through their respective authorized officers, as of the date first above written.

DISTRICT:

HAULER:

COSTA MESA SANITARY DISTRICT

CR&R INCORPORATED

By: [Signature]

By: _____

President

Name: _____

[Signature]

Title: _____

Secretary

ATTEST

[Signature]
District Clerk

APPROVED AS TO FORM:

[Signature]
District Counsel

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and through their respective authorized officers, as of the date first above written.

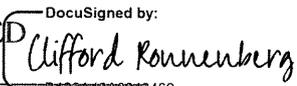
DISTRICT:

HAULER:

COSTA MESA SANITARY DISTRICT

CR&R INCORPORATED

By: _____

By:  DocuSigned by:
B423A48A0043462...

President

Name: Clifford R. Ronnenberg

Secretary

Title: Chairman/CEO

ATTEST:

District Clerk

APPROVED AS TO FORM:



District Counsel

EXHIBIT A
LIQUIDATED DAMAGES

District shall give notice of assessing liquidated damages. District will submit liquidated damages to Hauler on an annual basis. Hauler has ten business days to request a meeting with the general manager and present evidence, but the decision of the general manager is final.

A. Collection Reliability		
1.	For each failure to collect solid waste, recycling material, food waste and/or organic waste carts as defined in Section 2.01.010 of CMSD's Operations Code, in excess of 92 (ninety-two) homes per month.	\$100.00 per home
2.	For each failure to commence service to a new residential account within seven (7) calendar days after order, for basic level of service including solid waste, recycling material and co-collected food waste/organic waste in excess of five (5) such failures annually.	\$150.00 for each after 5
B. Collection Quality		
1.	For each occurrence of damage to private property which is not corrected to the satisfaction of the property owner within thirty (30) days of the damage and which exceed five (5) such occurrences annually.	\$250.00 for each after 5
2.	For each failure to properly return any empty residential cart in a location at curb or in alley to avoid pedestrian or vehicular traffic impediments or to place the cart in an upright position, in excess of twenty (20) such occurrences annually	\$50.00 per occurrence after 20
3.	Noise levels of equipment used for collection shall not exceed 75b (seventy-five decibels) when measured at a distance of fifty (50) feet from vehicle, five (5) feet from the ground; provided, however, in the event there is any conflict with this section and the noises levels permitted under the City of Costa Mesa's Municipal Code shall apply. Hauler shall submit to District, upon District's request, a certificate of Collection Vehicle noise level testing, by an independent testing entity, for any collection vehicle. Nothing in this agreement shall be construed as granting Hauler any rights or waivers to violate any applicable laws.	\$500 per occurrence
4.	For each failure to clean up solid waste, recycling material, food waste/organic waste spilled from	\$150.00 for each after 5

	carts, within the prescribed timeline described in contract in excess of five (5) such failures annually.	
5.	For each failure to conform to the requirements of "Hauler's Equipment", as described in the Agreement, which exceeds five (5) such occurrences.	\$150.00 for each after 5
6.	Comingling of solid waste with recycling materials and/or food waste/organic waste in collection vehicles except as provided in the event of contamination as approved by CMSD staff.	\$1,000 per incident
7.	Disposal of recyclable materials, food waste/organic waste in a disposal facility except as provided in this Agreement.	\$1,000 per incident
8.	For each ton of organic waste used as Alternative Daily Cover at the landfill.	\$150.00 per ton
9.	For each failure to provide CMSD with 10,000 tons per year of guaranteed capacity for processing recyclable materials and single material recyclables at the Clean Material Recovery Facility (MRF) as described in the Agreement	\$95.00 per ton of processing capacity not provided
C. Responsiveness to CMSD Residents		
1.	For each failure to initially respond to a resident complaint within eight (8) working hours.	\$100.00 per complaint
2.	For each failure to conform to the litter abatement requirements as described in the Agreement.	\$250 per occurrence
3.	Failure of Hauler to maintain an average hold time of ninety (90) seconds or less for calls made to CR&R's Customer Service line	\$500 per month that 90-second average hold time is exceeded.
4.	Failure or neglect to resolve a resident complaint relating to missed collection within one business day as described in the Agreement.	\$100.00 per incident per resident.
5.	Failure to notify residents of changes in route days as described in the Agreement	\$500.00 per occurrence
6.	For each failure to repair or replace a missing or damaged cart within two (2) business days of request from CMSD or resident.	\$50.00 per day
7.	For each failure to remove graffiti from carts, or to replace with carts bearing no graffiti, on the next service day or within seven (7) business days of request from CMSD or resident	\$50.00 per day
D. Timeliness of Submissions to CMSD		
1.	Any report required to be submitted to CMSD by CR&R pursuant to this Agreement shall be considered late until such time as a correct and	

	complete report is received by CMSD. Monthly, quarterly, and annual reports must contain the information specified in this Agreement. For each business day (excluding weekends, and the holidays listed in the Agreement) a report is late, the daily liquidated damage amount shall be:	
	A. Monthly Report	\$100 per day
	B. Quarterly Report	\$250 per day
	C. Annual Report	\$500 per day
	D. All other reports	\$100.00 per day
2.	Failure to provide records requested by CMSD within 30 days of CMSD request	\$250 per day until completed
3.	Failure of CR&R to provide requested access to on-board GPS data or video camera footage within five (5) business days of CMSD request. In the event of a crash/injury/fatality, failure to provide access to on-board GPS data or video camera footage to law enforcement within the timeframe requested by police, sheriff, public safety or other law enforcement.	\$100.00 per day
E. Accuracy of Billing		
1.	Each resident billing for extra services, as described in the Agreement, that is not prepared in accordance with list of prices and corrected in a timely manner to the satisfaction of the customer.	\$250.00 per account
F. Personnel		
1.	For each week CR&R's Sustainability Coordinator does not dedicate 20 hours on SB 1383.	\$500 per week
2.	Failure of CR&R representative to timely respond to CMSD within 1 business day of a written letter, email or telephone request.	\$50.00 per business day until CR&R has responded to request
G. Vehicles and Equipment		
1.	Each day CR&R fails to have in service Alternative Fuel vehicles as required in the Agreement	\$500.00 per vehicle
2.	Failure to label carts with labels, , and/or decals as described in the Agreement and/or failure to provided SB 1383 color-coded carts and lids as required in the Agreement	\$50.00 per cart or vehicle per business day until corrected.
3.	Failure to provide all trucks necessary to provide residential solid waste, recycling material and food waste/organic waste collection program by November 1, 2024.	\$100 per vehicle not placed in service per business day until completed.

4.	Failure to install collision avoidance system on any vehicles operating in CMSD by July 1, 2023.	\$250.00 per vehicle per day
H. Compliance Reporting and Audits		
1.	Each day, after the due date on CMSD invoice, CR&R fails to reimburse CMSD for education and outreach as outlined in Agreement.	\$250.00 per day
2.	Failure to distribute public education materials to designated residential routes that had 25% or higher contamination (or as required by SB 1383 regulations) after conducting waste characterization studies. If the failure continues after the initial assessment of liquidated damages, the liquidated damages are re-assessed for each additional thirty (30) day period the failure continues.	\$5,000 per route
3.	Failure to tag and photo document instances of contamination encountered during cart-to-cart outreach audits.	\$250.00 per instance of failure to tag/photo document contamination
4.	Failure to perform required number of Route Reviews per year at the number required to be in compliance with SB 1383 regulations.	\$5,000 per missed Route Review
5.	Failure to submit reports on route reviews and contamination audits within 30 days.	\$100.00 per report for each day the report is late.
6.	Failure to notify CMSD of date(s) and time(s) of route reviews and contamination audits at least 30 days prior to the review or audit.	\$250.00 per day that less than 30 days.
I. Public Education and Outreach		
1.	For each failure to comply with the education programs described in the Agreement.	\$100.00 per day
2.	For each failure to comply with community outreach programs described in the Agreement	\$100.00 per day

Exhibit B

Compensation Schedule

Below are the current rates for a two-cart system. Rates will be adjusted at a later date before implementing a three-cart system. On a monthly basis, the Hauler shall bill the District for the following three (3) items:

1. **Occupancy Fee.** Per Section 3.1.2, this fee includes all costs that the HAULER has for collection of solid waste and all equipment used including vehicles and carts for all customers. The current rate is \$10.6537 per month, per customer based upon monthly occupancy counts.

2. **Mixed Waste Fee.** \$56.52 per ton.

3. **Organics Recycling Fee.** \$77.77 per ton is what the HAULER charges for organics tonnage delivered to the Anaerobic Digestion (AD) facility in Perris, CA. This is measured on gross tonnage delivered.

**EXHIBIT C
AUXILLARY SERVICES**

<p>The following prices are effective on the date of this amendment. These services and prices are direct-billed by Hauler to Customers for extra services.</p> <p style="text-align: center;">Extra Service</p>	Monthly Price	Notes
Extra Trash Cart	\$9	Customer receives one (1) trash cart as part of their basic service. This price is for a second and all additional trash carts.
Extra Recycling Cart	\$9	Customer receives one (1) recycling cart as part of their basic service. This price is for a second and all additional recycling carts.
Extra Organics Recycling Cart	\$9	Customer receives two (2) organics recycling carts as part of their basic service. This price is for the third and all additional organics recycling carts.
Valet Service	\$40	Driver will move carts up to fifteen feet (15') from where the truck is stationed. Includes retrieving and returning carts from backyard or side yard. Service includes up to three (3) carts.
Extra weekly curbside collection	\$8	CR&R will return for a second curbside collection if customer pays fee.
Extra Bulky Item Collection	\$25	Includes 3 items per extra bulky item collection.
Contamination Fee	\$25	Hauler will issue a contamination fee if prohibited container contaminants are found in customers container on more than three (3) occasions within a twelve-month period.

Exhibit D
List of Collection Vehicles to be Provided by Hauler

The costs (including, but not limited to, capital cost, repair and maintenance) for all listed vehicles and replacements are included in the Hauler compensation in Exhibit B. Vehicle identification numbers marked as “TBD” shall be provided to the District on or before the roll out of a three-cart system.

Residential Collection Vehicles as of the Effective Date and Planned Replacement Dates

<u>Vehicle Type</u>	<u>Vehicle ID Number</u>	<u>Manufacturer Truck/Body</u>		<u>Model Year</u>	<u>Route</u>	<u>Type of Fuel</u>	<u>Planned Replacement Year</u>
		Truck	Body				
57337	3BPZX20X7EF251828	Peterbilt	Sideloader	2014	Residential	RNG	2024
57350	3BPZX20X1FF269369	Peterbilt	Sideloader	2015	Residential	RNG	2025
57358	3BPZX20X2FF269378	Peterbilt	Sideloader	2015	Residential	RNG	2025
57361	3BPZX20X0FF269377	Peterbilt	Sideloader	2015	Residential	RNG	2026
57362	3BPZX20X0FF269380	Peterbilt	Sideloader	2015	Residential	RNG	2026
57410	3BPZX20X4GF107558	Peterbilt	Sideloader	2016	Residential	RNG	2027
57487	3BPDX20X7NF113250	Peterbilt	Sideloader	2022	Residential	RNG	2029
57499	3BPDX20X2PF113594	Peterbilt	Sideloader	2023	Residential	RNG	2030
57506	3BPDX20X1PF113604	Peterbilt	Sideloader	2023	Residential	RNG	2030
57512	3BPDX20XXPF113598	Peterbilt	Sideloader	2023	Residential	RNG	2031

Exhibit E
List of Vehicles to be Provided by Hauler

Shop, Maintenance and Administrative Vehicles

Vehicle Type	Vehicle Number	Use	Make	Model Year	Type of Fuel
Truck	1155	Route Manager	Ford	2009	Gasoline
Car	8TNZ463	Sustainability Coordinator	Toyota Prius	2019	Hybrid

Door-to-Door HHW and Large Item Collection Vehicles

Vehicle Type	Vehicle Number	Manufacturer Truck/Body		Model Year	Route	Type of Fuel
		Truck	Body			
Frontloader	53198	Autocar		2006	Large Item	CNG
Box Truck	6262	International		2011	HHW	Gasoline