PURSUANT TO GOVERNOR NEWSOM’S EXECUTIVE ORDER N-29-20, THE MEETING WILL BE HELD BY TELECONFERENCE AND/OR VIDEO CONFERENCE ONLY. THE PUBLIC MAY PARTICIPATE BY JOINING THE ZOOM MEETING https://us02web.zoom.us/j/89867654459?pwd=ZDMvb2NzZmVpT2JYTTNjRTdvcThQZz09 AND SUBMITTING THEIR PUBLIC COMMENTS IN A LIVE MEETING FORMAT. ANY EMAILS SENT TO rethinker@rethinkwaste.org WILL BE PROVIDED TO THE BOARD MEMBERS PRIOR TO THE MEETING.

Live verbal public comments may be made by members of the public joining the meeting via Zoom. Zoom access information is provided above. Use the “raise hand” feature (for those joining by phone, press *9 to “raise hand”) during the public comment period for the agenda item you wish to address. The BOARD CHAIR will call on people to speak by name provided or last 4 digits of phone number for dial-in attendees. Please clearly state your full name for the record at the start of your public comment.

Written public comments for the record may be submitted in advance by 12:00 p.m. on the meeting date by email to: rethinker@rethinkwaste.org and will be made part of the written record but will not be read verbally at the meeting. Written public comments submitted by email should adhere to the following: 1) Clearly indicate the Agenda Item No. or specify “Public” in the Subject Line for items not on the agenda and 2) Include the submitter’s full name.

TELECONFERENCE PARTICIPANTS
ALL BOARD MEMBERS WILL PARTICIPATE BY TELECONFERENCE AND/OR VIDEO CONFERENCE PURSUANT TO GOVERNOR NEWSOM’S EXECUTIVE ORDER N-25-20.

PURSUANT TO RALPH M. BROWN ACT, GOVERNMENT CODE SECTION 54953, ALL VOTES SHALL BE BY ROLL CALL DUE TO ALL BOARDMEMBERS PARTICIPATING BY TELECONFERENCE AND/OR VIDEO CONFERENCE.

ANY REQUEST FOR REASONABLE ACCOMMODATION SHOULD BE ADDRESSED TO CYNDI URMAN AT CURMAN@RETHINKWASTE.ORG.

AGENDA

1. Call to Order/Roll Call

2. Public Comment
   Persons wishing to address the Board on matters NOT on the posted agenda may do so. Each speaker is limited to three minutes. If there are more than five individuals wishing to speak during public comment, the Chairman will draw five speaker cards from those submitted to speak during this time. The balance of the Public Comment speakers will be called upon at the end of the Board Meeting. If the item you are speaking on is not listed on the agenda, please be advised that the Board may briefly respond to statements made or questions posed as allowed under The Brown Act (Government Code Section 54954.2). The Board’s general policy is to refer items to staff for attention, or have a matter placed on a future Board agenda for a more comprehensive action or report and formal public discussion and input at that time. *Speakers may also submit comments via email prior to the meeting by sending those comments to rethinker@rethinkwaste.org.*
3. Executive Director’s Report

4. Approval of Consent Calendar
   Consent Calendar item(s) are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the Board, staff or public request specific items be removed for separate action. Items removed from the Consent Calendar will be moved to the end of the agenda for separate discussion.
   A. Approval of the Minutes from the June 24, 2021, Board of Directors Meeting
   B. Resolution Approving Calendar Year 2020 Statement of Revenues, Expenses and Debt Coverage
   C. Resolution Approving MRF incline conveyor belt in the not to exceed amount of $66,000
   D. Resolution Approving a First Contract Amendment in the amount of $30,000 with HF&H Consulting, LLC for SB 1383 planning, implementation, and franchise amendment services

5. Administration and Finance
   A. Resolution Recommending Approval to the Member Agencies of a Mandatory Organic Waste Disposal Reduction Ordinance to comply with SB1383
   B. Resolution Approving a Contract with Citizen Communications, dba “Recyclist” in an amount not to exceed $82,900 for SB1383 Recordkeeping Compliance
   C. Resolution Recommending a letter to be sent to CalRecycle regarding Convenience Zone
   D. Resolution Appointing a 4th Board Member to the Legislative Committee
   E. Mid-Session Legislative Session Update with Lobbyist EEC

6. Collection and Recycling Program Support and Compliance
   No Items

7. Shoreway Operations and Contract Management
   A. Update on Organics-to-Energy (O2E) Pilot Project

8. Public Education and Outreach
   No Items

9. Informational Items Only (no action required)
   A. SB 1383 Franchise Agreement Amendment Two Update
   B. 2021 Finance and Rate Setting Calendar
   C. Check Register Detail for March, June 2021
   D. 2021 Meeting Planning Guide

10. Board Member Comments

11. Adjourn
EXECUTIVE DIRECTOR’S REPORT
STAFF REPORT

To: SBWMA Board Members
From: Joe La Mariana, Executive Director
Date: July 22, 2021 Board of Directors Meeting
Subject: Executive Director’s Report

Staff and Agency partners continue to be hard at work supporting numerous projects, programs, and facility initiatives. Here are the highlights:

1. **COVID-19/Shelter-In-Place (SIP) Status Update:**
   As previously reported, Recology of San Mateo County (Recology), South Bay Recycling and SBWMA have taken extreme measures to protect our colleagues while continuing with high-quality services. All mandated safety protocols have been followed.

   a. **SBWMA Administrative Program Staff Ops:**
   Staff continues to work remotely from home or, when needed, at Shoreway as our administrative offices remain closed. An Office Return to Work Policy is currently being developed that includes a phased reopening of the agency’s administrative offices in accordance with safety protocols that is anticipated to be in the Fall.

2. **Administration & Finance:**

   a. **Staff Update**
   Recruitment for the open Fellowship positions (2021/2022) closes July 16 with panel interviews in late July. Staff anticipates onboarding the new Fellows in late August/early September.

   b. **Expiring Operations Agreement RFQ Update:**
   The staff Operations Agreement RFQ Project team is wrapping up internal review of the key RFQ file, following review at the 2nd Ad Hoc TAC meeting and technical inputs from HF&H and Sloan Vazquez consultants. That review process is now being replicated for the key Operations Agreement file, which will form the basis of the 3rd and final AHTAC meeting in early August. Both key files and their major attachments will be packaged for the 1st Ad Hoc Board Committee evaluation in early September, after which the final documents will be brought for approval by the Board at its September meeting.

   Pending Board approval, Staff will publicly distribute the RFP documents in October with a targeted submittal date in very early spring.

3. **Committee Updates:**

   a. **Finance Committee Meeting** (no meeting held)
b. Legislative Committee (June 25)
The Legislative Committee met to discuss the status of current legislation the Agency is tracking, including a recap of SB 289 – the battery extended producer responsibility bill the Agency was cosponsoring. There will be more update in a presentation from EEC today under item 5D. In addition, the Board will consider adding a 4th Board Member to the Legislative Committee under 5C.

c. Pub Ed/Outreach Committee (next meeting is July 23)

d. Technical Advisory Committee (no meeting held)

e. Zero Waste Committee (next meeting is July 22)

4. Collection and Recycling Program Support and Compliance:

a. SB 1383 Update
   Implementation Planning: Staff continues to implement the SB 1383 Compliance Plan approved by the SBWMA Board of Directors in November 2020, including:
   i. The Model Mandatory Organics Reduction Ordinance has been drafted, recommended by the TAC, reviewed with city attorneys and is in today’s meeting as item 5A.
   ii. Staff and contractor HF&H has also been working with Recology on what will be Amendment 2 to the Recology Franchise Agreement. More information about this can be found under item 9A.
   iii. Staff also continues to schedule and coordinate Study Sessions with Member Agencies’ elected bodies to provide an overview of SB 1383 and outline the timeline of implementation.

b. Community Outreach and Environmental Education

   i. Environmental Education (EE) Update
   This past spring, Staff selected and began working with a local artist to create a new indoor mural in the upstairs hallway of the Shoreway Education Center. The finished mural includes a map of the RethinkWaste service area and graphics and information related to landfills and plastic pollution in the oceans. Below is a before and after comparison of the hallway.

   MRF Public Hallway (before)
ii. **Pub Ed and Outreach Updates**

The Agency's latest virtual webinar was held on June 29 to prepare residents for Plastic Free July. We had over a dozen participants learn about what we can do to move towards a low-waste lifestyle. More information about what was discussed can be found here: [https://bit.ly/3dYmzSD](https://bit.ly/3dYmzSD)

The upcoming continued battery outreach campaign is anticipated to start early August, with a focus on the fire risk that improperly disposed of batteries bring.

5. **Shoreway Operations and Contract Management**
a. **Organics-to-Energy (O2E) Pilot Update**

The O2E Pilot project was restarted in April and has operated until mid-June when the project was stopped until the Board authorized additional funds to operate through the rest of 2021. On July 12th the pilot was restarted and slurry shipments to Wastewater Treatment Plants (WWTP) have resumed. Over 60 loads of slurry have been shipped to WWTPs since the start of the pilot, with a current daily production of three loads per day. The tracking of production and operating costs will continue with the goal of developing a clear understanding to the value of this project for treating commercial source separated organics under the new regulatory regime of SB 1383. Further updates will be given under today's item 7A.

b. **SBR/VRS Short term Agreement finalized**

SBR advised Staff that they and the County's Vocational Rehabilitation Services (VRS) program have fully executed a new agreement providing sorters for the MRF's recycling operations through December 31, 2021. This agreement is notable because the current agreement expired on June 30th. The two parties have agreed to work towards a longer term agreement this fall.

c. **Other facility projects:**

i. **Underground Storage Tank (UST) replacement project.**

By law, these UST diesel fuel tanks must be replaced by December 31, 2025. Preliminary technical contractor selection has begun and project planning will proceed thereafter. Core site work is targeted for late 2023 through end of 2024 to properly secure technical contractor availability and full mandate compliance. Although significant funds have been earmarked, actual projects costs can only be determined upon 1. final approved designs 2. final construction contract(s) are executed and 3. actual soil assessments are evaluated by regulators.

ii. **MRF automation—Phase Two.**

The planned second phase of high-speed, automated equipment (including robotics) has begun with the preliminary technical contractor selection process. Once selected, technical design and building specs will follow.

iii. **MRF Building Repair Project** *(Eastern wall).*

Structural failure of tipping area wall requires new design and replacement. Engineered designs and building specs are due by July 31st and ready for Board consideration this fall.

iv. **Other site projects:**

Other major active projects include Upgrading site electrical capacity in anticipation of a portion of Recology's fleet converting to EV between 2023-2026; conducting a first-ever site master plan to optimize site layout; installing an emergency water tower to maximize fire surpression at MRF.

No shortage of action in our solid waste world these days!

Respectfully submitted,

Joe La Mariana  
Executive Director
CONSENT CALENDAR
Call to Order: 2:03 PM

1. Call to Order/Roll Call

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All Members and public participated by Zoom Video or Conference Call

2. Public Comment

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None

3. Executive Director’s Report

Executive Director La Mariana welcomed all to the meeting and gave the following report.

- As reported earlier two Finance Committee members are retiring. Since the packet went out two new Finance Committee members have been appointed. Rebecca Mendenhall, Administrative Services Director of San Carlos, and Rich Lee, Finance Director in San Mateo will both join the committee.
- 8 Member Agencies have approved Amendment One to the Franchise Agreement which formally ratifies the Joint Powers Authority Master Agreement regarding the addition of a 4th bulky item collection route beginning in January 2022. There are 3 member agency’s elected bodies are still scheduled to consider this item, but 8 is the majority needed to approve this change.
- 8 Member Agencies have also approved the JPA language amendments that were approved by the SBWMA Board last spring, and staff is taking appropriate action to move forward on that as well. Remember, this item was paused due to COVID quarantine priorities.
- This fall staff anticipates presenting a second proposed amendment to the Franchise Agreement for
Board and elected body consideration is to expand Recology’s services to comply with SB 1383 technical requirements on behalf of our Member Agencies. Currently, staff and Recology are working on costs and services.

- There will be a Zero Waste Committee meeting on July 22 at 12N before the July Board meeting at 2PM.
- Staff is actively working on the Operations RFP, the RFP document will be released in October, and responses are due back in January. The early part of the spring 2022 will be the review process at both TAC and Board levels.
- He pointed out agenda item 9A and complimented Staff Au and Staff Rosales on this document that summarized 2020, especially considering what a crazy year 2020 was.

4. Approval of Consent Calendar

Consent Calendar item(s) are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the Board, staff or public request specific items be removed for separate action. *Items removed from the Consent Calendar will be moved to the end of the agenda for separate discussion.*

A. Approval of the Minutes from the March 25, 2021 Board of Directors Meeting
B. Approval of the Minutes from the April 22, 2021 Board/TAC Retreat
C. Resolution Approving Extension of the MOU with Silicon Valley Clean Water for Organics-to-Energy Material Processing
D. Resolution Approving Extension of the MOU with Central Marin Sanitary Agency for Organics-to-Energy Material Processing
E. Resolution Accepting the Findings from the Audit of Contractor’s Financial and Operational Reporting in 2020 by R3 Consultants
F. Approval of Quarterly Investment Report for the Quarter Ended March 31, 2021

Motion/Second: Brownrigg/Bonilla
Roll Call Vote: 7-0-0-4

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5. Administration and Finance

A. Appointment of Ad Hoc Selection Committee (AHSC) to Review and Recommend to the Board, the Terms of a Request for Proposals (RFP) Regarding the Selection of a Contractor to Operate the Shoreway Recycling and Disposal Center Commencing January 1, 2022.

Executive Director La Mariana gave an overview of the staff report, noting that the TAC level evaluation committee mentioned in his Executive Director’s report will review the technical aspects of the RFP documents. A three Member Board level committee is needed to review the responses and recommend a selection to the Board. He asked three Board Members to volunteer and noted it would be 4-5 meetings over the next year.

Chair Aguirre asked for an explanation of why the committee was added on to the committee list, and why it’s important.

Executive Director La Mariana explained that having elected officials review the RFP responses and make a recommendation would represent integrity and transparency in the public procurement process.
The following Board Members volunteered to serve on the committee:
- Member Brownrigg, Burlingame
- Member Bonilla, San Mateo
- Member Froomin, Foster City
- Member Taylor, Meno Park

Motion/Second: Royse/Froomin  
Roll Call Vote: 7-0-0-4

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B. Resolution Approving Fiscal Year 2021-2022 Property Insurance Coverage

Staff Mangini gave an overview of the renewal process for Shoreway insurance for July 2021-June 2022. He noted that staff asked the broker Risk Strategies to look at varying levels of coverage and varying levels of deductibles. The Finance Committee reviewed these scenarios and gave the direction to insure for 80% of the total replacement value of the assets on site, for a total of $65M in coverage. In past years the coverage has been about $60M in coverage. The $65M coverage level in Policy Year 2021/22 has been quoted to be an annual premium of almost $1.7M.

Member Brownrigg commented that the Finance Committee opted not to insure for 100% of the replacement value scenario, but to strike a balance between protecting against bad outcomes, but not a catastrophic event, because a catastrophic event was several hundred thousand dollars more and $1.7M is already a lot of money.

Vice Chair Bonilla asked what fund the $1.7M deductible would come from.

Staff Mangini answered there is currently a $5M reserve fund, and he expected the Board to make a decision to cover the deductible with the emergency reserve fund.

Motion/Second: Royse/Brownrigg 
Roll Call Vote: 7-0-0-4

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C. Review and Recommendation of Approval Mid-Year Review and Adjustments and the FY2022 Budget Forecast

Staff Mangini gave an overview of the staff report and reminded the board that the JPA is now on an annual financial year with the calendar year. He noted that net income to reserves is projected now to be almost $700,000 which is mainly due to stronger than expected commodity revenues. Regarding the agency’s projected
expenses, there have been some pluses and minuses versus the adopted budget, most notably the reduced
cost of implementing SB 1383, which is trending to be about $500,000 less than expected. And an increased
cost is SBR’s compensation anticipating that the Board will approve costs later in this meeting to cover additional
Organics-to-Energy pilot costs. He noted that this approval also approves a forecast for 2022 that includes a
tipping fee increase of roughly 2% in 2022 that allows staff to calculate the revenue requirement by Member
Agency.

Member Froomin asked why the actual costs for implementing SB 1383 are so much lower than projected.

Staff Mangini noted that those projections came on the conservative approach on advice from consultants, but
with the addition of one staff member staff has taken on quite a bit of the load, and less consultants have been
needed thus far and some of the expected expenses are now projected for next year.

Member Froomin saw a similar number estimated for ongoing costs in the MOU discussion later on the agenda.
He wondered if the estimated costs in the MOU were too high, how would that get reconciled with the Member
Agencies.

Executive Director La Mariana added that as staff is getting deeper into the planning and implementation, we are
learning more and more about what the actual costs are, and they will be reported out regularly through both
program updates, and in specific line items in the budget. He noted that it wouldn’t include individual Member
Agency staff time and hard costs at the Member Agency level, because the SBWMA budget is regional for the
entire JPA. He added that in the planning phase of SB 1383 staff heard very loudly from the Board that they
wanted the JPA to centralize any tasks that could be centralized, but there are a handful of tasks that the
Member Agencies need to retain for a variety of reasons.

Staff Mangini added that if costs are reduced it increases net income to reserves and that money goes into
reserves but thought that if the Board wanted to reduce tip fees for the remainder of the year and reduce the net
income to reserve number some of that money could be reclaimed back to the Member Agencies.

Member Bonilla made a motion to approve staff’s recommended changes to the mid-year budget and approve
the calendar year 2022 projections.

Motion/Second: Bonilla/Brownrigg
Roll Call Vote: 7-0-0-4

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D. Resolution Recommending approval of the Implementation of SB 1383 Memorandum Of
Understanding to the SBWMA Member Agencies

Staff Carter gave a PowerPoint presentation on the SB 1383 Memorandum Of Understanding (MOU) agreement
with the SBWMA and the Member Agencies for implementation of SB 1383 Regulations. The presentation gave
an overview of what requirements the SBWMA staff would take the lead on and what was included in the
proposed MOU, and what requirements the Member Agencies would be responsible for and were not included in
the MOU. He noted that a final ordinance needs to be in place by January 1, 2022.
The Board discussed costs associated with the MOU. Executive Director La Mariana noted that if there is a scenario where a Member Agency feels like the MOU isn’t working for them the remaining program costs would be allocated proportionally to the remaining member agencies using the same methodology based on tonnage as the rest of the operational costs. He also noted that staff would do everything in their power to reduce costs.

The Board discussed the procurement requirements of SB 1383. Member Brownrigg asked if a city is required to buy compost from the SBWMA in an amount that is proportional to the amount of organic material they produce. Staff Carter answered that it is based on a formula from Cal Recycle, but that it is proportional to population, he also noted that the requirement is not necessarily to purchase from the SBWMA but to purchase from any avenue that a city can to meet their specific procurement requirement amounts and meets SB 1383 standards, it can be compost, mulch, bio-gas etc.

Member Brownrigg asked if the Organics-to-Energy program is successful, can that be counted toward all the member agencies quota. Executive Director La Mariana commented that it’s currently unknown how the Organics-to-Energy program could affect the procurement requirements of SB 1383. He noted that the procurement requirements were one of the components of the bill, that this agency, and others in the industry spoke against loudly on, but the requirements didn’t change when it became law. The amounts are staggering in terms of what needs to be brought back into the jurisdictions. Member Brownrigg asked if the legislative committee could look into the issue further.

Member Brownrigg commented that complying with SB 1383 presents an opportunity for staff to speak to member agency councils and residents about the value that is created by being part of a JPA and working on compliance together. He added that if it can be documented it helps them speak to residents about why their rates are going up, but maybe won’t be going up as much as they would. He suggested a case study of a medium city outside of a JPA versus a JPA member agency to look at the difference in costs.

Chair Aguirre asked who is responsible for the procurement requirements. Executive Director La Mariana answered that now that SB 1383 is a law, Cal Recycle and CARB are the designated enforcement agencies. Staff has gotten a hard line response from both agencies in that they don’t feel it’s within their jurisdictional authority to change the procurement quantity requirements. Ultimately, each Member Agency is responsible for compliance of SB1383’s procurement requirements.

Member Froomin asked about the procurement requirements for cities to buy recycled paper and other items, noting that typically these items are more expensive that traditional items, but he wondered if these were two different procurement requirements in the law. Staff Carter answered that there is a paper product component to the law, which requires jurisdictions to purchase paper products with a certain percent of recycled content. The second part of the procurement requirements is what we’ve been talking about today where a jurisdiction must purchase compost, mulch or bio-gas per that mathematical equation, but does not need to be applied within in the jurisdiction’s limits. Member Froomin commented that it is wasteful of taxpayers’ dollars to require cities to purchase it whether they need it or not.

Vice Chair Bonilla commented that it’s very clear this a huge lift but agreed with Member Brownrigg that he is lucky to be a part of the JPA to help manage the compliance process.

The Board then discussed the complaint process laid out in the MOU. Member Froomin noted that the SBWMA would support member agencies in the support process but wondered what that support would look like. Executive Director La Mariana answered that a key component of what support looks like is still in negotiations with Recology and what will become Amendment Two to their scope of services, but staff will be providing the
data to the member agencies to support the action that would be taken by code enforcement or public works.
He also noted that variances would follow the same protocol, but Cal Recycle is indicating that they expect less
than 10% variance exemptions.

Member Froomin asked what the difference between the MOU, and Amendment Two to the Franchise
Agreement. Staff Carter answered that the MOU identifies roles and responsibilities between the SBWMA and
the member agencies. Amendment Two is to the franchise agreement with Recology and identifies their
expanded scope of services required to comply with SB 1383.

Motion/Second: Bonilla/Froomin
Roll Call Vote: 7-0-0-4

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6. Collection and Recycling Program Support and Compliance
   A. Consideration of Two-Year Extended License Agreement with Recology San Mateo County for Use
      of a Portion of SBWMA’s Shoreway Environmental Center Property

Executive Director La Mariana gave an overview of the staff report and noted that the agreement has existed for
10 years, expired at the beginning of 2021, and both parties agreed to a 6 month extension in January, which
expires at the end of June. The agreement gives the SBWMA protection and indemnity and ensures that the
contracted party who has been granted use of a portion of the Shoreway property acts responsibly. Over the
last 6 months Recology has expressed concern over some of the large-scale projects that are planned for
Shoreway, but not yet fully defined, so staff is now recommending keeping the key components in place for
another 2 years, and during that time staff will look at how Shoreway site plans will affect Recology’s ability to
operate at Shoreway.

Motion/Second: Brownrigg/Dehn
Roll Call Vote: 7-0-0-4

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7. Shoreway Operations and Contract Management
   A. Resolution Approving an RFP and Workplan for a Construction and Demolition Debris Processing
      Agreement

Staff Ligon gave an overview of the staff report. He noted upon approval the RFP will be released tomorrow,
and staff is on pace for finalizing the contract in September.
Member Froomin commented that increases are based on CPI, and he thought the economy is moving around a lot, and he thought it would be good to have a floor and ceiling on the CPI to protect costs from going too high and protects the vendor from not making any money.

Executive Director La Mariana responded that staff would take the suggestion into consideration as they move forward with the contract.

Motion/Second: Dehn/Froomin
Roll Call Vote: 7-0-0-4

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B. Resolution Approving a Contract Amendment in the amount Not-to-Exceed $500,000 with SBR for Continued Operation of the Organics-to-Energy Pilot through December 31, 2021

Executive Director La Mariana commented that the pilot has been a long-time coming, and that staff has been working towards it for 3 years. The total cost of the pilot equipment is $5.25M. The goals of the pilot were to 1) confirm the technical proof of concept of the outtake material from processing, early reports from the wastewater treatment plants are that the material is very well received. 2) to understand the operational requirements of running the organics-to-energy equipment and processing the material. In 2019 the cost projections were best guess scenarios, and staff has since learned that the organics-to-energy pilot requires more labor than expected. 3) To be as revenue neutral as possible to the cost paid for offsite green waste processing, and 4) to be able to deliver an exemption for the SB 1383 standard compliance model. Staff has since learned that it doesn't look like the project will comply with SB 1383 requirements, but still hopes that the economic benefits over off-site processing will pan out. But the pilot is requiring more labor than expected and the material is more contaminated than expected. Should we move forward with the full program staff will work with Recology to get cleaner material, but there hasn't been an opportunity for that yet.

Staff Gans noted that in July there will be a full technical and financial discussion, but the pilot hasn't run long enough to have that discussion yet. This is a request for additional funding to run the pilot for the remainder of the year. The reason additional funding is needed is that all the material has had to be presorted before it could go into the machine, because it's more contaminated than expected and that has had a big labor impact. He added that at this point it looks like the costs will be comparable to the status quo option of offsite processing of food waste but offers a greener pathway to get energy out of the material.

Executive Director La Mariana noted that the Finance Committee and Executive Committee have reviewed this and are on board with going forward.

Member Dehn asked as the restaurants return to operation can we expect less contamination or is this an educational issue.

Staff Gans answered that the material was surveyed before COVID and summarized that the designated loads are about 50% food waste, and the other 50% is paper, cardboard, and landscaping material. So, the material is organic the collection program is working, but it's not conducive to the material. As the material returns, we expect the material amount to increase but the ratios to stay the same.
Member Froomin asked for the follow up July report to include if there was revenue generation potential in the future noting that energy has value, and if the material is being used to create energy there should be a value, and if they report indicates energy is being created, we need to explain to residents why there is no value in that energy. He also wondered with the extra $500,000 that was being approved today, is the project still cost neutral.

Staff Gans noted that there is a cost to process the material at the wastewater treatment plants before that plant can turn it into energy. That cost and economic analysis still needs to occur, the pilot has only been running for a month, so the data isn’t ready yet. He also noted that even with this additional labor cost, it’s still cost competitive with composting cost so it’s revenue/cost neutral.

Member Rak now present 3:35PM

Executive Director La Mariana noted that the aspirational goal is to be revenue neutral with the cost for organics waste processing. It costs $69/ton to process clean green waste material. To process food waste is $85/ton. So, when staff is talking about food waste, we are targeting the $85/ton price because food waste it what is being used as feedstock for the organics-to-energy program. He also noted that industry wide the cost to process food waste and green bin material is increasing, and one of our two contracts is expiring in a year and half. Lastly he noted that in the discussions with Recology regarding expanding services for SB 1383, this is a highly related subject to get to a place where there could be just a food waste route, as opposed to a commercial organics route as the program is laid out now.

Mike Kelly of Recology clarified that the customers are utilizing the program as designed, the material that being delivered isn’t contaminated, it just doesn’t meet the operational requirements as delivered with the Orex press equipment. Executive Director La Mariana concurred with Mr. Kelly’s clarifying statement.

Public Comment by Ricki McGlashan: She noted that the contamination issue is on people’s minds and wondered if there was an educational component to better utilize the program. She thought it was weird to accept the fact that what was being collected is more than can be used.

Member Brownrigg commented that these are very important questions, and noted that this is a pilot, and it’s regrettable when investments don’t work out, but the Zero Waste Committee and the Board will have the opportunity to analyze and place further capital, but the Board is committed to this no matter what.

Motion/Second: Froomin/Bonilla
Roll Call Vote: 8-0-0-4

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C. Update on San Mateo County’s termination of the VRS program contract with SBR

Executive Director La Mariana gave a verbal report noting that SBR has had a 10 year relationship with San Mateo County’s Vocational Rehabilitative Services (VRS) program to provide sorters at the facility. About 8 weeks ago, SBR was given notice that as of June 30 the County was going to discontinue the relationship with
VRS. Since that time, Dwight Herring of SBR working with the County came to a verbal agreement to extend the services through the end of the year.

Dwight Herring of SBR added that he and Dan Domonoske had a conversation with Ken Cole, Director of the County’s Human Services Agency, to understand what the issues are. He now has a verbal commitment to extend the program through the end of the year and has agreed that between now and the end of the year, SBR will work with the county to make the program more robust and beneficial to the County. He thought if they could make that happen, he anticipated that the program would be able to continue past 2021. He would keep the SBWMA staff updated on how things are progressing.

Vice Chair Bonilla thanked Dwight Herring for his efforts.

Member Froomin commented that he would like to see staff explore other sources of labor for those services to ensure that if agreement can’t be reached with the County, Shoreway can stay flexible.

Member Rak wondered what the notification period for extending or canceling is going forward, so that if this situation does arise again there is a bit more notice.

8. **Public Education and Outreach**
   No Items

9. **Informational Items Only (no action required)**
   A. Review of SBWMA 2020 Annual Report

   Executive Director La Mariana noted that he called this item out during his Executive Director's report.

   B. 2021 Finance and Rate Setting Calendar
   C. Check Register Detail for March, April and May 2021
   D. Update on Technical Consulting Contracts
   E. Legislative Session Update
   F. 2021 Meeting Planning Guide

10. **Board Member Comments**

11. **Adjourn 3:56PM**
STAFF REPORT

To: SBWMA Board of Directors
From: Joe La Mariana, Executive Director
John Mangini, Senior Finance Manager
Date: July 22, 2021 Board of Directors Meeting
Subject: Resolution Approving Calendar Year 2020 Statement of Revenues, Expenses and Debt Coverage

Recommendation
It is recommended that the SBWMA Board of Directors approve Resolution No. 2021-21 attached hereto authorizing the following action:

- Approving the South Bayside Waste Management Authority’s Statement of Revenues, Expenses and Debt Coverage for Calendar Year 2020 as compiled by SBWMA's audit firm, Maze & Associates.

Analysis
As part of the 2019 Bond Indenture, the SBWMA is required to present an unaudited calendar year Statement of Revenues, Expenses and Debt Service Coverage to the bond rating agencies. The reports are limited to information that is required in the bond indenture and include the results of the bond covenant tests.

The attached SBWMA Statement of Revenues, Expenses and Debt Service Coverage (see Attachment A) for the calendar year ending December 31, 2020, was prepared by the City of Redwood City Administrative Services Department with assistance from SBWMA staff and compiled by the independent auditing firm of Maze & Associates. The report is unaudited.

Due to scheduling conflicts, Staff was unable to organize a Special Finance Committee Meeting to review the Statement of Revenues, Expenses and Debt Coverage and obtain a recommendation from the Finance Committee for Board approval. In lieu of a Special Finance Committee Meeting, Staff requested comments from Finance Committee Members on the Statement of Revenues and Expenses for the Calendar Year 2020. The Finance Committee Members question and comments were generally clarifying in nature with no material concerns raised.

Overview of the Financial Reports
Table 11 of the attached Financial Information shows net revenues for calendar year 2020 of $6,051,775. The SBWMA is obligated by the bond indenture to set tip fees at Shoreway that produce financial results which generate enough revenue to achieve the covenant tests. The SBWMA is reporting debt service coverage of 1.66 that meets the minimum requirement of 1.40. These tests are intended to show sufficient liquidity to satisfy bond holders that there is sufficient income to cover bond debt service.
Bond Financial Performance Requirements

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**Background**

In 2019 the Board approved the issuance of $48.8 million par value of Solid Waste Enterprise Revenue Series 2019 Bonds, to refund the $44.6 million outstanding Solid Waste Enterprise Revenue Bonds, Series 2009A to achieve Present Value debt service savings and raise $20 million in new money proceeds to fund priority capital projects of the Agency. The 2019 bond indenture requires annual financial reporting on a fiscal (audited) and calendar year (unaudited) basis.

Maze & Associates also audits the SBWMA’s fiscal year financial statement. The audited financial statements for FY19/20 were approved by the Board at the January 28, 2021 Board meeting.

**Fiscal Impact**

The cost for the audit firm to perform the Calendar Year is approximately $2.5K and is included in the adopted budget.

**Attachments:**

- Resolution 2021-21
- Exhibit A – Calendar Year 2020 Unaudited Financial Information (containing the 2020 Unaudited Statement of Revenues, Expenses and Debt Service Coverage).
RESOLUTION NO. 2021-21

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS
APPROVING THE CALENDAR YEAR 2020 STATEMENT OF REVENUES, EXPENSES AND DEBT COVERAGE

WHEREAS, the South Bayside Waste Management Authority contracted with the audit firm of Maze & Associates to conduct a compilation of the Agency’s financial records for compliance with the continuing disclosure requirements of the 2019 Bond Indenture, and

WHEREAS, the Statement of Revenues, Expenses and Debt Coverage for the calendar year ending December 31, 2020 as prepared by the City of Redwood City Administrative Services Department have been completed, and

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves the unaudited Statement of Revenues, Expenses and Debt Coverage as compiled by Maze & Associates for the calendar year ending December 31, 2020 (Exhibit A).

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 22nd of July, 2021, by the following vote:

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I HEREBY CERTIFY that the foregoing Resolution No. 2021-21 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on July 22, 2021.

ATTEST: Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board
SOUTH BAYSIDWASTE MANAGEMENT AUTHORITY
UNAUDITED FINANCIAL INFORMATION (Revised)
DECEMBER 31, 2020
SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY

UNAUDITED FINANCIAL INFORMATION (Revised)

FOR THE CALENDAR YEAR ENDED DECEMBER 31, 2020

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INDEPENDENT ACCOUNTANT’S COMPILATION REPORT
(Revised)

To Members of the Board of Directors of the
South Bayside Waste Management Authority (Authority)
San Carlos, California

Management is responsible for the accompanying Unaudited Statement of Revenues, Expenses and Debt Service Coverage (financial information) for the Year ended December 31, 2020, in accordance with the form prescribed by the $31,860,000 South Bayside Waste Management Authority Solid Waste Enterprise Refunding Revenue Bonds (Shoreway Environmental Center) Series 2019A (Non-AMT) (Green Bonds) and the $16,915,000 South Bayside Waste Management Authority Solid Waste Enterprise Revenue Bonds (Shoreway Environmental Center) Series 2019B (AMT) (Green Bonds) Official Statement (2019 OS). We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants (AICPA). We did not audit or review the financial information nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on the financial information in the accompanying prescribed form.

The Authority’s financial information mentioned above were prepared on the basis in accordance with the form prescribed by the 2019 OS mentioned above, and are not intended to be a presentation in accordance with accounting principles generally accepted in the United States of America.

Management has omitted the disclosures ordinarily included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America, because such disclosures are not a requirement of the 2019 OS.

This report is intended for the information and use of the Authority’s Board of Directors for compliance reporting required in the 2019 Official Statement, and is not intended to be and should not be used by anyone for any other purpose.

Maze & Associates

Pleasant Hill, California
June 8, 2021
### Table 11
SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
UNAUDITED STATEMENT OF REVENUES, EXPENSES
AND DEBT SERVICES COVERAGE (Revised)
FOR THE CALENDAR YEAR ENDED DECEMBER 31, 2020

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
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</thead>
<tbody>
<tr>
<td><strong>REVENUES</strong></td>
<td></td>
</tr>
<tr>
<td>Charges for services</td>
<td>$43,832,962</td>
</tr>
<tr>
<td>Commodity revenue</td>
<td>5,832,586</td>
</tr>
<tr>
<td>Other</td>
<td>30,199</td>
</tr>
<tr>
<td>Interest Income</td>
<td>573,046</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td><strong>50,268,793</strong></td>
</tr>
<tr>
<td><strong>OPERATING EXPENSES</strong></td>
<td></td>
</tr>
<tr>
<td>Shoreway operations</td>
<td>30,506,911</td>
</tr>
<tr>
<td>MSW Disposal</td>
<td>10,312,527</td>
</tr>
<tr>
<td>SBWMA program administration</td>
<td>3,397,580</td>
</tr>
<tr>
<td><strong>Total Operating Expenses</strong></td>
<td><strong>44,217,018</strong></td>
</tr>
<tr>
<td><strong>Total Net Revenues</strong></td>
<td>$6,051,775</td>
</tr>
<tr>
<td>Debt Services</td>
<td>$3,641,014</td>
</tr>
<tr>
<td><strong>Debt Services Coverage</strong></td>
<td><strong>1.66</strong></td>
</tr>
<tr>
<td>Ending Unrestricted Fund Balances</td>
<td>$16,382,154</td>
</tr>
</tbody>
</table>

See Independent Accountants’ Compilation Report
STAFF REPORT

To: SBWMA Board Members
From: Hilary Gans, Senior Operations and Engineering Manager
Date: July 22, 2021 Board of Directors Meeting
Subject: Approving MRF Incline Conveyor Belt in the Not-to-Exceed Amount of $66,000

Recommendation
Staff recommends that the Board of Directors approve Resolution No. 2021-22 approving MRF incline conveyor belt in the not-to-exceed amount of $66,000.

Summary
A large belt that is essential to the MRF operations is worn and needs to be replaced. The residential incline belt is part of the original BHS MRF equipment installation and is approximately 10 years old.

Analysis
The residential single stream line Incline Belt is a well-worn “combo belt” (roller chain). It has seen 10+ years of wear and identified as requiring replacement. Two vendors are involved (See bids attached):

- Tennessee Industrial provided a lowest cost (bid attached) by for the chain belt combo conveyor belt.
- Titus quoted sprockets, bearings, rental equipment, and labor install the new belt.

A summary of project costs are presented below:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tennessee Industrial, excludes tax/freight</td>
<td>$41,118.00</td>
</tr>
<tr>
<td>Titus labor quote, includes Titus supplied parts and rental equipment</td>
<td>$25,540.00</td>
</tr>
<tr>
<td><strong>Sub Total, excludes tax/freight</strong></td>
<td>$66,658.00</td>
</tr>
<tr>
<td><strong>SBR Responsibility</strong></td>
<td>($10,000.00)</td>
</tr>
<tr>
<td><strong>SBWMA Total, excludes tax/freight</strong></td>
<td>$56,658.00</td>
</tr>
</tbody>
</table>

Project includes a contingency of approximately $10,000 and a $10,000 contribution from SBR as stipulated by the Operating Agreement. The lead-time for parts approaches one month, and, upon board approval, the installer has committed to an install date on the weekend beginning Friday, August 20th.

Fiscal Impact
The belt and installation cost is $56,658 and there is a $10,000 contingency for a total not-to-exceed amount of $66,658. This cost will be drawn from the MRF equipment replacement reserve and, therefore, will have no FY 2021 budget impact.

Attachments:
Resolution 2021-22
Attachment A: Incline Belt Work Order and Quotes
RESOLUTION NO. 2021-22
RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS
APPROVING A MRF INCLINE CONVEYOR BELT
IN THE NOT TO EXCEED AMOUNT OF $66,000

WHEREAS, the shoreway MRF has sorting equipment that is aging and in need of replacement,

WHEREAS, the MRF residential incline belt is a part of the original BHS equipment installation and is worn to the point of needing replacement,

WHEREAS, the staff has worked with SBR to develop a plan to purchase a new belt and install the belt to replace the old under the work order process that reimburses SBR for their maintenance expense over $10,000,

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves MRF incline conveyor belt in the not to exceed amount of $66,000

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 22nd day of July, 2021, by the following vote:

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<thead>
<tr>
<th>Agency</th>
<th>Yes</th>
<th>No</th>
<th>Abstain</th>
<th>Absent</th>
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<td>County of San Mateo</td>
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<tr>
<td>West Bay Sanitary Dist</td>
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I HEREBY CERTIFY that the foregoing Resolution No. 2021-22 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on July 22, 2021.

ATTEST: Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board
# Attachment A: MRF Incline Belt Work Order and Quotes

**Tennessee Industrial Specialties, Inc**

**Address:**

SOUTH BAY RECYCLING

**Phone:**

(770) 679-0870

**Fax:**

(770) 679-0045

**Website:**

www.tnindustrialspecialties.com

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<table>
<thead>
<tr>
<th><strong>QUOTATION</strong></th>
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<tbody>
<tr>
<td><strong>Date:</strong> June 30, 2021</td>
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</tbody>
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<table>
<thead>
<tr>
<th><strong>Customer ID</strong></th>
<th><strong>Good Date</strong></th>
<th><strong>Payment Terms</strong></th>
<th><strong>Bulk Price</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1234</td>
<td>6/30/2021</td>
<td>Net 30 Days</td>
<td></td>
</tr>
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</table>

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**Description**

- **Unit Price:** $31.00
- **Total:** $41,118.00

---

**Summary**

**Total:** $41,118.00

---

**Notes:**

- Item 1: 10" wide x 16" long x 12" tall, 304 stainless steel, 2 stands on 60" runners, 2 stands on 54" runners, 2 stands on 44" runners.
- Item 2: 19" wide x 16" long x 12" tall, 304 stainless steel, 2 stands on 60" runners, 2 stands on 54" runners, 2 stands on 44" runners.

---

**TMS**

**Title:** MRF Incline Belt Work Order and Quotes

---

**Dear Sirs:**

We are pleased to present our quotation for the purchase and installation of the following equipment:

1. **Incline Belt System**
   - **Model:** 90, **Type:** AC-450, **Width:** 48" x 164" x 12"
   - **Material:** Stainless Steel, **Weight:** 2,500 lbs.

---

**Estimate Total:** $25,548.00

---

**Sincerely,**

**Michael J. Alonzo**

Manager

**Titus Maintenance & Installation Services, Inc**

**Address:**

1303 North Ave

**City:** Faribault, MN 55021

**Phone:**

507-362-3535

**Fax:**

507-362-3533

---

SBWMA BOD PACKET 07/22/2021

FULL PACKET PAGE 33 of 188

AGENDA ITEM: 4C ATTACHMENT A - p1
 recommendation

It is recommended that the SBWMA Board of Directors approve Resolution No. 2021-23 attached hereto authorizing the approval of a contract amendment in the amount of $30,000 with HF&H Consulting, LLC for continued SB 1383 planning, implementation, and franchise amendment services.

summary

The contract amendment is needed due to increased support for "Task 2: SB 1383 Franchise Amendment Negotiation" of the Scope of Work. Given a longer timeline than anticipated, additional staff time is needed by HF&H Consulting, LLC for participation in meetings with SBWMA and Recology, drafting of franchise amendment for SB 1383 services, and evaluation of Recology's proposed cost for SB 1383 services.

Analysis

The SBWMA hired HF&H to assist in planning and implementation activities surrounding the SB1383 Compliance Plan. The contract amount was for $49,500 for two tasks; Task 1: SB1383 Planning and Implementation and Task 2: SB1383 Franchise Amendment Negotiation. The Franchise Agreement negotiation is requiring more HF&H staff time and a longer timeline than initially anticipated. Based on the current rate of negotiations and past experience with Recology negotiations, it is anticipated the contract funds will be used by August 2021.

Background

The SBWMA previously engaged HF&H about SB 1383 to prepare an SB1383 Compliance Plan, which was approved by the Board in November 2020. Then the SBWMA hired HF&H in April 2021 to assist in various planning and implementation activities. Those include amending the Recology Franchise Agreement to integrate contamination monitoring, reporting, and other activities that will support the SBWMA's Member Agencies in compliance with SB 1383 regulations, along with refining estimates of 1383 Performance and Standard Approach compliance that account for new information pertaining to the SBWMA's Organics-to-Energy (O2E) Pilot Project.

Fiscal Impact

The approved FY 2021 mid-year budget of $489,813 for SB 1383 has funding available for the additional $30,000 contract amendment as a part of the $150,000 for Technical Assistance (expense worksheet line item 67).

Attachments:
Resolution 2021-23
Exhibit A – First Amendment to the Professional Services Agreement for SB 1383 planning, implementation, and franchise amendment services
RESOLUTION NO. 2021-23

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS APPROVING A CONTRACT AMENDMENT IN THE AMOUNT OF $30,000 WITH HF&H CONSULTING, LLC FOR SB 1383 PLANNING, IMPLEMENTATION, AND FRANCHISE AMENDMENT SERVICES

WHEREAS, the State of California passed SB 1383 (Chapter 395, Statutes of 1383), which required the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, CalRecycle has finalized regulations and revised Chapter 12 (Short-lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations (“SB 1383 Regulations”); and

WHEREAS, The South Bayside Waste Management Agency (SBWMA) hired HF&H Consulting, LLC for SB 1383 planning, implementation, and franchise amendment services; and

WHEREAS, Additional staff time is needed by HF&H Consulting, LLC for participation in meetings with SBWMA and Recology, and evaluation of Recology’s proposed cost for SB 1383 services; and

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves a contract amendment in the amount of $30,000 with HF&H Consulting, LLC (Exhibit A).

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 22nd day of July, 2021, by the following vote:

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<tr>
<td>County of San Mateo</td>
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<tr>
<td>West Bay Sanitary Dist</td>
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</tbody>
</table>

I HEREBY CERTIFY that the foregoing Resolution No. 2021-23 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on July 22, 2021.

ATTEST: Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board
FIRST AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY AND HF&H CONSULTANTS, LLC

This document constitutes the First Amendment to the Agreement for Professional Services entered into as of the 6th day of April 2021 by and between the South Bayside Waste Management Authority, hereinafter “SBWMA”, and HF&H Consultants, LLC hereinafter called "CONSULTANT".

RECITALS

This first Amendment is entered into with reference to the following facts and circumstances:

WHEREAS, on April 6, 2021, SBWMA and Consultant entered into an Agreement for Professional Services for a SB 1383 planning, implementation, and franchise amendment services; and

WHEREAS, Consultant has indicated that the scope of work needs to be revised due to increased support needed for Task 2: SB 1383 Franchise Amendment Negotiation. Additional staff time is needed by Consultant for participation in meetings with SBWMA and Recology, drafting of the franchise amendment, and evaluation of Recology’s proposed cost for SB 1383 services; and

WHEREAS, the Agreement for Professional Services is hereby amended to reflect the additional scope of work and associated costs based on this need.

Based upon the foregoing Recitals, SBWMA and Consultant agree to the following terms:

I. Section 1., Services, the first paragraph shall be amended to read as follows:

“The services to be performed by Consultant under this Agreement shall include those services set forth in Exhibit A of the Original Agreement and those set forth in Exhibit A to this First Amendment, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.”

II. Section 4., Compensation, add the following sentence to the end of the second paragraph as follows:

“Pursuant to the First Amendment, the contract amount shall be increased for a not to exceed amount of $30,000.00, resulting in a revised combined total of compensation and reimbursement of costs payable hereunder not to exceed $79,500.00.”
C. All other terms and conditions of the Agreement for Professional Services shall remain in force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this ___________ Amendment to be executed on the date first above written by their respective officers duly authorized in that behalf.

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY:

By: ________________________________ DATED: _____________________, 2021
Joe La Mariana, Executive Director

APPROVED AS TO FORM:

By: ________________________________ DATED: _____________________, 2021
Jean B. Savaree, SBWMA Attorney

CONSULTANT:

By: ________________________________ DATED: _____________________, 2021
Rob Hilton, President, HF&H Consultants, LLC

NOTICE TO PROCEED

By: ________________________________ DATED: _____________________, 2021
Cyndi Urman, Board Secretary
EXHIBIT A TO FIRST AMENDMENT

SCOPE OF WORK, WORK SCHEDULE, AND FEE SCHEDULE
FOR
SB1383 PLANNING, IMPLEMENTATION AND FRANCHISE AMENDMENT SERVICES

SUMMARY
The SBWMA sought HF&H’s assistance in planning and implementation activities surrounding the Agency’s CA Senate Bill 1383 (SB1383) Compliance Plan regarding amending the Recology Franchise Agreement.

The Consultant has indicated that the scope of work needs to be revised due to increased support needed for Task 2: SB 1383 Franchise Amendment Negotiation. Additional staff time is needed by Consultant for participation in meetings with SBWMA and Recology, drafting of the franchise amendment, and evaluation of Recology’s proposed cost for SB 1383 services. The contract amount shall be increased for a not-to-exceed amount of $30,000.00, resulting in a revised combined total of compensation and reimbursement of costs payable hereunder not to exceed $79,500.00.
ADMINISTRATION
AND
FINANCE
STAFF REPORT

To: SBWMA Board Members
From: Tj Carter, Recycling and Compliance Program Manager
Date: July 22, 2021 Board of Directors Meeting
Subject: Resolution Recommending Approval to the Member Agencies of a Mandatory Organic Waste Disposal Reduction Ordinance to comply with SB1383

Recommendation
It is recommended that the SBWMA Board of Directors approve Resolution No 2021-24 attached hereto authorizing the approval of the Model Mandatory Organic Waste Disposal Reduction Ordinance.

Summary
The SBWMA Board of Directors approved the SB 1383 Compliance Plan in November 2020, which included the development of a model ordinance for Member Agency adoption. The SBWMA Board of Directors also reviewed a draft SB 1383 MOU outlining the responsibilities of the Agency and the Jurisdictions with respect to SB 1383 compliance, and development of a model Model Mandatory Organic Waste Disposal Ordinance (MODRO) was included as part of the Agency's responsibilities. In accordance with this plan, the SBWMA has developed, in conjunction with Debra Kaufman Consulting (DKC), a MODRO for Member Agencies to adopt and use in complying with and enforcing SB 1383.

The TAC reviewed the proposed MODRO on June 10th and recommended Board adoption. Once adopted by the Board, the Member Agencies will need to customize a few sections of the ordinance to make it jurisdiction-specific before bringing it to their city council for adoption. The MODRO identifies the sections that need to be customized and provides guidance on how to do that.

Analysis
The SBWMA, in conjunction with DKC, modified the model enforcement ordinance provided by CalRecycle to fit the specific nature of the collection programs provided in the SBWMA service area and the SBWMA SB 1383 Compliance Plan. The MODRO assumes the use of a Standard Compliance Approach with a 3-container collection system, as defined by SB 1383. It also allows for flexibility for the potential of future use of a two-container collection system for Organics-To-Energy customers, though this outcome is pending pilot project results.

The MODRO authorizes both member agencies and the County to serve as enforcement agencies to maximize flexibility and allow the County to enforce aspects of the edible food recovery program, which will be undertaken through an MOU between the County and each participating jurisdiction.

While the ordinance includes the items that Member Agencies need to enforce on other entities, it does not include all SB 1383 requirements on Member agencies. The MODRO is designed to enable Member Agencies to require and enforce provisions that the SB 1383 regulations require jurisdictions to require and enforce. It does not include the requirements that CalRecycle will be enforcing on the jurisdiction itself, such as recordkeeping,
contamination monitoring, recovered organic waste product procurement target attainment and outreach and education to organics generators and edible food generators. These other SB 1383 requirements on the Member Agency will need to be addressed in other ways such as through the franchise agreements, and MOUs with SBWMA and the County. These items are currently being worked on in tandem with the development of the model ordinance.

**Ordinance sections include the following:**

- Purpose and findings
- Definitions
- Requirements for single family generators
- Requirements for commercial businesses
- Waivers
- Requirements for commercial edible food generators
- Requirements for food recovery organizations and services
- Requirements for haulers and facility operators
- Self hauler requirements
- Compliance with CalGreen recycling requirements
- Model water efficient landscaping ordinance requirements
- Procurement requirements for jurisdiction departments, direct service providers and vendors
- Inspections and investigations by jurisdiction
- Enforcement
- Effective date

The ordinance includes the regulatory required components of an SB 1383 ordinance.

**Key Ordinance requirements are highlighted below (this is not a comprehensive list).**

- Single family homes must have organics collection service and properly sort their materials.

- Businesses and Multifamily buildings must have organics collection service and properly sort their materials.

- Businesses must supply, through their hauler, an adequate number of labeled, color coded containers for employees, contractors, tenants and customers, provide education to new tenants, provide access to jurisdictions to confirm compliance.

- Largest commercial edible food generators (includes supermarkets, large groceries, food service providers, distributors and wholesale food vendors) must donate edible food through a written agreement with food recovery organizations and keep specified records by January 1, 2022.

- Large commercial edible food generators (includes large restaurants, large hotels, large health facilities, large venues and events, large state agencies and local education agencies) must donate edible food through a written agreement with food recovery organizations and keep specified records, by January 1, 2024.
• Haulers are required to transport source separated waste to facilities that recover those materials and obtain approval from Member Agencies to haul their organic waste to specified facilities.

• Applicants for new and modified construction permits of a certain size are required to comply with CalGreen.

• Applicants for new and modified construction projects with a specified landscape area are required to meet MWELO requirements.

• Vendors of paper products are required to meet specified recycled content requirements with certification of such.

• Suppliers of compost and mulch to the Member Agency are required to provide compost and mulch that meets SB 1383 standards (this is not a regulatory requirement but will allow Member Agency to count compost and mulch purchases toward their organic waste product procurement target.

• The Member Agency’s, and the County’s, right to inspect and enforce the requirements are contained in the Ordinance, as are penalties for violations.

The SBWMA contract with DKC also includes a specified amount of hours for Ms. Kaufman to directly assist individual Member Agencies, who would like assistance, in customizing the Agency MODRO for their specific circumstances and/or assist with Council presentations or answer technical questions. That technical assistance was offered by SBWMA staff at the June TAC meeting and will continue to be available until those funds are spent.

Background
In September 2016, SB 1383 (Lara, Chapter 395, Statutes of 2016) established statewide methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants in various sectors of California’s economy. It includes statewide goals to reduce the disposal of organic waste and recover edible food for human consumption. To accomplish these statewide goals, SB 1383 regulations, which were approved on November 3rd 2020, include prescriptive requirements for jurisdictions related to recycling and organics collection, inspection, and enforcement policies and programs and edible food recovery. The SBWMA and its Member Agencies need to comply with nearly all SB 1383 requirements by January 1, 2022 with the significant exception that enforcement actions do not need to commence until January 1, 2024.

More information regarding SB 1383 can be found online at www.calrecycle.ca.gov/organics/slcp/.

Fiscal Impact
There is no anticipated cost to adopt the Model Ordinance. Member Agencies should anticipate potential costs related to enforcement of SB 1383. Potential fiscal impacts of enforcing the ordinance and other required SB 1383 implementation costs to member agencies were analyzed in the SB 1383 workplan presented to the Board in November.

Attachments:
Resolution 2021-24
Attachment A - Model Mandatory Organic Waste Disposal Reduction Ordinance for Adoption by Member Agencies
Attachment B – Presentation on SB 1383 Model Mandatory Organics Disposal Reduction Ordinance
RESOLUTION NO. 2021-24
RESOLUTION OF THE SOUTH BAYSIDES WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS ADOPTING THE MODEL MANDATORY ORGANIC WASTE DISPOSAL REDUCTION ORDINANCE FOR MEMBER AGENCIES

WHEREAS, the State of California passed SB 1383 (Chapter 395, Statutes of 1383), which required the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, CalRecycle has finalized regulations and revised Chapter 12 (Short-lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations ("SB 1383 Regulations"); and

WHEREAS, the SB 1383 Regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations including regulation of waste haulers and generators of organic waste and edible food, and enforcement mechanisms and penalties for violations.

WHEREAS, Jurisdictions may utilize a Joint Powers Authority to comply with some of the requirements of Chapter 12: Short-lived Climate Pollutants, except that the Jurisdictions shall remain ultimately responsible for compliance; and

WHEREAS, The South Bayside Waste Management Agency (SBWMA) Board of Directors adopted the SB 1383 Compliance Plan in November 2020 outlining the roles and responsibilities between SBWMA and its Member Agencies; and

WHEREAS, The SBWMA developed a Model Mandatory Organic Waste Disposal Reduction Ordinance for Member Agencies to utilize; and

WHEREAS, The SBWMA Technical Advisory Committee reviewed and recommended the approval of the Model Mandatory Organic Waste Disposal Reduction Ordinance to the SBWMA Board of Directors on June 10th; and

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves the recommendation of Model Mandatory Organic Waste Disposal Reduction Ordinance to the SBWMA Member Agencies for adoption.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 22nd day of July, 2021, by the following vote:
I HEREBY CERTIFY that the foregoing Resolution No. 2021-24 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on July 22, 2021.

ATTEST: Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board
Model Mandatory Organic Waste Disposal Reduction Ordinance

July 14, 2021

Developed with Debra Kaufman Consulting
This ordinance is not intended to cover each and every situation, nor can it anticipate specific needs. In developing this Model Ordinance, Debra Kaufman Consulting has attempted to ensure that the language herein aligns with the SB 1383 regulations; however, in the event of any conflict, the language in the regulations shall prevail over language in the Model Ordinance and determination of regulatory intent and interpretation should be appropriately guided by the regulatory language. SBWMA cannot guarantee that use of this Model Ordinance will ensure compliance with the regulatory requirements it is intended to address, however, it is based on the Model tool provided by CalRecycle.

The consultant modified the model tool provided by CalRecycle to fit the specific nature of the collection programs provided in the SBWMA service area and the anticipated SB 1383 compliance program. This model ordinance assumes the use of a standard SB 1383 compliance approach with a 3 container collection system. It allows for flexibility for the potential of future use of a two container collection system for O2E customers.

This Model Ordinance does not constitute legal advice. Member agencies are encouraged to seek legal counsel appropriate to their particular circumstances regarding compliance with regulatory requirements. This ordinance assumes that the member agencies will use a standard compliance approach, as defined in SB 1383 and a three container collection system.

CalRecycle regulations require that by January 1, 2022, a jurisdiction shall adopt an enforceable ordinance(s), or similarly enforceable mechanism to mandate that organic waste generators, haulers, and other entities that are subject to the jurisdiction’s authority, comply with the requirements in SB 1383 regulations.
# MODEL ORDINANCE

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<td>16</td>
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</table>
GUIDANCE ON THE MODEL MANDATORY ORGANIC WASTE DISPOSAL REDUCTION ORDINANCE

For the purposes of this document, “SB 1383 regulations” or “SB 1383 regulatory” requirements refer to the Short-Lived Climate Pollutants (SLCP); Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of Title 14, Division 7 of the California Code of Regulations (CCR), and amended portions of regulations of Title 14 CCR and Title 27 CCR. The SB 1383 regulations set forth a variety of programmatic and policy-related requirements for jurisdictions, generators, and other entities to support the Statewide goals of SB 1383.

INTRODUCTION

IMPORTANT CONSIDERATIONS

- Member Agencies will be referred to as Jurisdictions throughout this document.

- New Ordinance or Amendment of Existing Ordinance. If jurisdictions are amending an existing ordinance, example provisions from the Model can be integrated into an existing ordinance. Jurisdictions should be mindful of the fact that this Model is intended to focus on SB 1383 regulatory requirements. A jurisdiction may choose to integrate additional provisions into its ordinance to: (i) provide more clarification on how regulated entities are expected to comply; (ii) expand beyond the SB 1383 regulatory requirements; and/or (iii) include other solid waste handling and diversion requirements.

- Standard based or performance based compliance. For the purpose of the Model, “Standard Compliance Approach” means the method for complying with the SB 1383 regulations through implementation of organic waste collection programs and policies in accordance with 14 CCR Division 7, Chapter 12, Article 3 and associated requirements. Generally, all provisions in the SB 1383 regulations, other than 14 CCR, Division 7, Chapter 12, Article 17, apply to the Standard-Compliance Approach, unless the Performance-Based Compliance Approach is specifically referenced.

This model assumes a standard based SB 1383 compliance approach, which offers jurisdictions more flexibility in their collection system as well as more consistency with their program parameters in the event that contamination is higher than anticipated. It does, however, come with some additional regulatory requirements. Many, but not all of those requirements are included in this model ordinance. In contrast, a performance based compliance approach requires providing 3 container service to 90 percent of a jurisdiction’s residential and commercial generators and demonstrating specified high
levels of recovery at specified facilities. If performance based recovery standards are not met, jurisdictions would be required to meet the more stringent standard based compliance requirements. If circumstances change in the future, jurisdictions can change their ordinance more easily from a standard based compliance approach to a performance based compliance approach, as the latter would have fewer requirements for the jurisdiction to enforce, but this would likely require some ordinance revision.

- **SB 1383 Regulatory Requirements.** Each jurisdiction is responsible for understanding and achieving compliance with SB 1383 regulations. Use of the Model Ordinance does not exempt a jurisdiction from complying with all SB 1383 regulatory requirements. The Model Ordinance includes example language that supports compliance with some, but not all SB 1383 regulatory requirements. The Model Ordinance is designed to enable the jurisdiction to require and enforce provisions that SB 1383 regulations require jurisdictions to require and enforce. It does not include the requirements on the jurisdiction itself, which CalRecycle will be enforcing on the jurisdiction, including recordkeeping, contamination monitoring, recovered organic waste product procurement target attainment, and outreach and education. It is advised that jurisdictions thoroughly review the SB 1383 regulations and take necessary actions to ensure full compliance.

- **Involve Legal Counsel.** Each jurisdiction is responsible for involving its legal counsel to perform legal review and approval processes typically required by the jurisdiction for approval of such ordinances.

- **Engage with Affected Entities** When adopting a new or amended ordinance, it is advised that the review and adoption process involve engagement with the regulated entities, which will help with the implementation process as they will be more aware of the upcoming requirements. For example, engagement with organic waste generators, haulers, food recovery organizations, and food recovery services may help jurisdictions to obtain useful input from these stakeholders.

- **Example Language Only.** The provisions in the Model Ordinance are examples of how some SB 1383 regulatory requirements may be integrated and worded in an ordinance. Jurisdictions are not required to use this exact language. The language does, however, reflect the requirements that jurisdictions are required to place on others. All language should be considered in the context of the specific requirements contained in the SB 1383 regulations and the jurisdictions' unique conditions.

- **Review Highlighted Text.** Highlighted text has been provided throughout the Model Ordinance to indicate guidance, jurisdiction-specific language, and County of San Mateo Office of Sustainability required language.

**Guide to Highlighted Text**

<table>
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<tr>
<th>Text</th>
<th>Explanation</th>
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<td>-G-2-</td>
<td>Guidance to the Model Ordinance</td>
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</table>
Guidance notes are integrated into the Model to explain how specific sections and provisions of the Model can be customized for a jurisdiction’s needs. These are to be deleted in the final ordinance.

<table>
<thead>
<tr>
<th>Jurisdiction-Specific</th>
<th>There are areas where specific information needs to be provided by the jurisdiction</th>
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<tr>
<td>County of San Mateo Office of Sustainability required Edible Food Recovery Program Language.</td>
<td>This language has been provided by the County of San Mateo Office of Sustainability and is required for participation in their Edible Food Recovery Program</td>
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### CUSTOMIZATION CONSIDERATIONS

The Model Ordinance is customizable to provide flexibility for each jurisdiction’s needs.

The following notes some of the sections that should be closely reviewed to ensure that the final document reflects the individual jurisdiction’s circumstances. More specific guidance is included in the Model.

### 3. WAIVERS AND EXEMPTIONS

SB 1383 regulations allow jurisdictions to grant waivers to some generators for de minimis volumes, physical space limitations, and less-than-weekly collection frequency, although these waivers are not required. The Model Ordinance includes sample language should a jurisdiction decide to include such waivers.

### 4. DELEGATION OF RESPONSIBILITIES & ENFORCEMENT

Jurisdictions are advised to consider which enforcement requirements of the SB 1383 regulations will remain the responsibility of the jurisdiction and which will be delegated to other entities under a written agreement. Some jurisdictions may choose to conduct inspections and enforcement themselves and others may enter an agreement another government entity to conduct such inspections and enforcement on their behalf. Jurisdictions should consider whether it is sharing responsibility for enforcement with any other public entities when considering what language to include. Example language to reflect a shared enforcement methodology is presented in the Model Ordinance. It is important to note that regardless of how a jurisdiction chooses to handle enforcement, the jurisdiction itself remains responsible for enforcement, and could be subject to penalties based on non-enforcement.
according to SB 1383 regulations. It is also important to understand that SB 1383 regulations prohibit a jurisdiction from delegating its authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity. As written, the language in the enforcement section of the model ordinance is consistent with the enforcement process and timeline outlined in SB 1383 regulations; and California Government Code Section 53069.4. Jurisdictions should ensure that the enforcement language is also consistent with their own administrative procedures on enforcement actions.

6. ALIGNMENT OF DEFINED TERMS

The Model Ordinance includes many terms which were obtained from SB 1383 regulatory definitions and some from example ordinances and franchise agreements. The definitions provided herein are consistent with SB 1383 regulations. The definitions have been modified to be consistent with current Recology collection program parameters including materials collected and container colors. Jurisdictions are advised to review the definitions to ensure consistency amongst definitions used in existing franchises, processing agreements, and municipal code, while still meeting SB 1383 regulatory requirements. Jurisdictions may need to amend the definitions in their municipal/county code to align with updated definitions in their ordinance and franchise agreement. Jurisdictions should attempt to coordinate definitions used in the ordinance, their franchise agreement, and their municipal/county code sections related to solid waste collection and recycling.

While jurisdictions may modify or create their own definitions or delete definitions, jurisdictions must ensure that all SB 1383 regulatory requirements are met. For example, material streams can be defined, renamed, or further subdivided, or the jurisdiction may wish to refer to the containers by material stream type rather than color; however, the ordinance must include requirements to assure that all organic waste specified in SB 1383 regulations for collection is collected and processed or managed in a compliant manner.

Additionally, the Model refers to containers by their colors (black, green, blue) as is done in the SB 1383 regulations.

The following figure identifies the defined terms used in the Model Ordinance to describe the various material streams associated with each color container. This is provided for convenience to orient the user to the terminology, which, in some cases, is likely to be different than their current terminology.
### Defined Terms Used in Model Ordinance

<table>
<thead>
<tr>
<th>Container Color</th>
<th>Terminology of Material Streams</th>
</tr>
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</table>
| Blue Containers | • Source separated recyclable materials  
• Non-organic recyclables - glass, metal, plastic, etc.  
• Source separated blue container organic waste – organic recyclables such as fibers and cardboard |
| Green containers | • Source separated Green Container organic waste including food, food soiled paper, plant debris. |
| Black containers | • Black container waste (three container system that does not allow organic waste, such as food waste, in the black container)  
• Mixed waste organic collection stream or mixed waste (two- and one-container systems and three- and three-plus-container systems that allow organic waste, such as food waste, in the black container) |

**Note:** Organic waste is a defined term that serves as an umbrella for all organics including source separated blue container organic waste, source separated green container organic waste, textiles, carpet, etc. Organic wastes are collected in a combination of containers depending on the collection system and therefore not separately identified in the table above.

### ADDITIONAL TIPS FOR USING THE MODEL

1. **Modify Language.** Adjust the Model language to fit the jurisdiction’s specific needs.

2. **Change Jurisdiction.** The term “jurisdiction” is used throughout this Model Ordinance; however, the entity responsible for adopting this Ordinance will need to change “jurisdiction” throughout the document to the appropriate term, which may be City, Town, County or Special District that provides solid waste handling services.

3. **Delete Guidance Notes**

4. **Blend Existing Ordinance Provisions with Model Provisions.** When using the Model Ordinance, users may want to select provisions from both the Model Ordinance and any existing recycling or solid waste related ordinance(s), and codes to create an ordinance that best suits its needs.

### ADDITIONAL CALRECYCLE RESOURCES

1. SB 1383 General Information: [https://www.calrecycle.ca.gov/organics/slp](https://www.calrecycle.ca.gov/organics/slp)
2. SB 1383 Regulations: [https://www2.calrecycle.ca.gov/Docs/Web/118371](https://www2.calrecycle.ca.gov/Docs/Web/118371) (for an accessible version, please use this link: [https://www2.calrecycle.ca.gov/Docs/Web/118368](https://www2.calrecycle.ca.gov/Docs/Web/118368))

3. SB 1383 Model Implementation Tools: [https://www.calrecycle.ca.gov/organics/slcp/education](https://www.calrecycle.ca.gov/organics/slcp/education)

   This webpage includes the following Model Tools:
   - Model Franchise Agreement
   - Model Mandatory Organic Waste Disposal Reduction Ordinance
   - Model Recovered Organic Waste Product Procurement Policy
   - Model Food Recovery Agreement

4. Other Recovered Organic Waste Product Procurement Resources

   - Calculator for Annual Recovered Organic Waste Product Procurement: [https://www2.calrecycle.ca.gov/Docs/Web/118521](https://www2.calrecycle.ca.gov/Docs/Web/118521)

5. SB 1383 Case Studies: [https://www.calrecycle.ca.gov/organics/slcp/education](https://www.calrecycle.ca.gov/organics/slcp/education)

   Eight case studies are available including two each on franchise agreements, mandatory organic waste disposal reduction ordinances, recovered organic waste product procurement, and food recovery programs and policies.

6. Other Relevant SB 1383 CalRecycle Reports

   - SB 1383 Local Services Rates Analysis: [https://www2.calrecycle.ca.gov/Publications/Details/1698](https://www2.calrecycle.ca.gov/Publications/Details/1698)
   - SB 1383 Infrastructure and Market Analysis: [https://www2.calrecycle.ca.gov/Publications/Details/1652](https://www2.calrecycle.ca.gov/Publications/Details/1652)

7. Relevant Regulations Referenced in the Model Policy:


   - Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of California Code of Regulations:
https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I55B69DB0D45A11DEA95CA4428EC25FA0&transitionType=Default&contextData=%28sc.Default%29

- Public Contract Code (including recycled-content paper requirements):

- Public Resources Code:
  http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?lawCode=PRC&division=30.&title=&part=1.&chapter=2.&article=&goUp=Y

- Code of Federal Regulations, Title 16 (including relevant definitions):

-G-7- Guidance to the Model Ordinance
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SECTION 1. PURPOSE AND FINDINGS

The Jurisdiction finds and declares:

(a) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste
Management Act of 1989 (California Public Resources Code Section 40000, et
seq., as amended, supplemented, superseded, and replaced from time to time),
requires cities and counties to reduce, reuse, and recycle (including composting)
Solid Waste generated in their Jurisdictions to the maximum extent feasible before
any incineration or landfill disposal of waste, to conserve water, energy, and other
natural resources, and to protect the environment.

(b) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the
State of California on October 5, 2011, which amended Sections 41730, 41731,
41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections
40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section
42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of,
the Public Resources Code, as amended, supplemented, superseded and
replaced from time to time), places requirements on businesses and Multi-Family
property owners that generate a specified threshold amount of Solid Waste to
arrange for recycling services and requires Jurisdictions to implement a Mandatory
Commercial Recycling program.

(c) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the
Governor of the State of California on September 28, 2014, which added Chapter
12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public
Resources Code, relating to Solid Waste, as amended, supplemented,
superseded, and replaced from time to time), requires businesses and Multi-Family
property owners that generate a specified threshold amount of Solid Waste,
Recycling, and Organic Waste per week to arrange for recycling services for that
waste, requires Jurisdictions to implement a recycling program to divert Organic
Waste from businesses subject to the law, and requires Jurisdictions to implement
a Mandatory Commercial Organics Recycling program.

(d) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires
CalRecycle to develop regulations to reduce organics in landfills as a source of
methane. The regulations place requirements on multiple entities including
Jurisdictions, residential households, Commercial Businesses and business
owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food
Recovery Organizations, and Food Recovery Services to support achievement of
Statewide Organic Waste disposal reduction targets.
(e) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.

(f) Requirements in this ordinance are consistent with other adopted goals and policies of the Jurisdiction including: __________ (Jurisdiction to insert description).

Guidance: At Jurisdiction’s option, Jurisdictions may want to include this subsection (f) to add Jurisdiction-specific diversion goals or policies here such as a 75% diversion or zero waste goal, C&D recovery ordinance, greenhouse gas reduction goals, local climate action plan, WELO, procurement policy, etc.

(g) Even if the jurisdiction delegates responsibility for enforcement to another public entity, the jurisdiction itself will remain ultimately responsible for compliance of this ordinance as required in 14 CCR Section 18981.2 (c).

SECTION 2. TITLE OF ORDINANCE

This chapter shall be entitled “Mandatory Organic Waste Disposal Reduction Ordinance”.

SECTION 3. DEFINITIONS

Guidance: Most of the following definitions are excerpted from the SB 1383 Regulations (14 CCR Section 18982). There are additional definitions in the SB 1383 Regulations that are not included here. Jurisdiction may want to review that list of definitions in 14 CCR Section 18982 to determine whether it wants to add any additional definitions to its ordinance. Jurisdiction may also choose to delete definitions not appropriate for its conditions and/or to include additional definitions that are appropriate for its ordinance.

(a) “Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

(b) “Black Container” has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Black Container Waste.

(c) Black Container Waste” means Solid Waste that is collected in a Black Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste or Source Separated Recyclables in the Black Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).
(d) “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 others).

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

(f) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.

(g) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this ordinance. For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

(h) “Compliance Review” means a review of records by a Jurisdiction or its designated entity to determine compliance with this ordinance.

(i) “Community Composting” means any activity that comports green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

(j) “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

Compost eligible for meeting the Jurisdiction’s Annual Recovered Organic Waste Product Procurement Target must be produced at a compostable material handling operation or facility permitted or authorized under 14 CCR Chapter 3.1 of Division 7 or produced at a large volume in-vessel digestion facility that composts on-site as defined and permitted under 14 CCR Chapter 3.2 of Division 7. Compost shall meet the State’s composting operations regulatory requirements.

(k) “Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
(l) “C&D” means construction and demolition debris.

(m) "Designated Source Separated Organic Waste Facility", as defined in 14 CCR Section 18982(14.5), means a Solid Waste facility that accepts a Source Separated Organic Waste collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one of the following:

1. The facility is a "transfer/processor," as defined in 14 CCR Section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d), and meets or exceeds an annual average Source Separated organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(f) for Organic Waste received from the Source Separated Organic Waste collection stream.

   (A) If a transfer/processor has an annual average Source Separated organic content Recovery rate lower than the rate required in Paragraph 1 of this definition for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a "Designated Source Separated Organic Waste Facility".

2. The facility is a "composting operation" or "composting facility" as defined in 14 CCR Section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR Section 17896.5. The definition of composting operation includes in-vessel digestion as regulated in 14 CCR Section 17896.

   (A) If the percent of the material removed for landfill disposal that is Organic Waste is more than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a "Designated Source Separated Organic Waste Facility.” For the purposes of this ordinance, the reporting periods shall be consistent with those defined in 14 CCR Section 18815.2(a)(49).

Guidance: The reporting periods identified in the above Section 3(l)(2)(A) are consistent with reporting that facilities must submit to CalRecycle under RDRS regulations and not reporting to be submitted under this ordinance.
(n) i. "Designee" means an entity that a Jurisdiction contracts with or otherwise arranges to carry out any of the Jurisdiction’s responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

ii. "Designee for Edible Food Recovery" means the County of San Mateo’s Office of Sustainability with which the Jurisdiction has a Memorandum of Understanding for the purposes of Edible Food Recovery including, but not limited to, inspection, investigation, and enforcement of the Edible Food Recovery provisions of this ordinance. Contact information for the Designee for Edible Food Recovery can be found on the County of San Mateo’s Office of Sustainability website.

Guidance: Note that SB 1383 regulations prohibit a jurisdiction from delegating its authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity.

(o) "Edible Food" means food intended for and fit for human consumption and collected or received from a Tier One or Tier Two Commercial Edible Food Generator. For the purposes of this ordinance “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

(p) "Edible Food Recovery" means actions to collect, receive, and/or re-distribute Edible Food for human consumption from Tier One and Tier Two Commercial Edible Food Generators that otherwise would be disposed.

(q) "Enforcement Action" means an action of the Jurisdiction or County of San Mateo’s Office of Sustainability to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

(r) "Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances. Excluded wastes also includes construction materials, dirt, rock and concrete, electronic waste and batteries, fluorescent lights, hazardous waste, liquids and grease, medicines and sharps and treated wood. These include material that facility collectors and operator(s), which receive materials from the Jurisdiction and its generators, 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 Jurisdictions, or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Jurisdiction, or
its Designee, 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. Excluded
Waste does not include household batteries placed in a sealed clear plastic bag
placed on top of the black can, or any other universal wastes if such materials are
defined as allowable materials for collection through the Jurisdiction’s collection
programs and the generator or customer has properly placed the materials for
collection pursuant to instructions provided by Jurisdiction or its Designee for
collection services.

(s) “Food Distributor” means a company that distributes food to entities including, but
not limited to, Supermarkets and Grocery Stores.

(t) “Food Facility” has the same meaning as in Section 113789 of the Health and
Safety Code.

(u) “Food Recovery” means actions to collect, receive and or re-distribute edible food
for human consumption from Tier One and Tier Two Commercial Edible Food
Generators, that otherwise would be disposed.

(v) “Food Recovery Organization” means an entity that engages in the collection or
receipt of Edible Food from Commercial Edible Food Generators and distributes
that Edible Food to the public for Food Recovery either directly or through other
entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not
limited to:

(1) A food bank as defined in Section 113783 of the Health and Safety Code;

(2) A nonprofit charitable organization as defined in Section 113841 of the
Health and Safety Code; and,

(3) A nonprofit charitable temporary food facility as defined in Section 113842

A Food Recovery Organization is not a Commercial Edible Food Generator for the
purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12
pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization
differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall
apply to this ordinance.

(w) “Food Recovery Service” means a person or entity that collects and transports
Edible Food from a Tier One or Tier Two Commercial Edible Food Generator to a
Food Recovery Organization or other entities for Edible Food Recovery. A Food
Recovery Service is not a Commercial Edible Food Generator for the purposes of
this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to
14 CCR Section 18982(a)(7).

(x) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat,
poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and
eggshells. Food Scraps excludes fats, oils, and grease when such materials are
Source Separated from other Food Scraps.

(y) “Food Service Provider” means an entity primarily engaged in providing food
services to institutional, governmental, commercial, or industrial locations of others
based on contractual arrangements with these types of organizations.

(z) “Food-Soiled Paper” is 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 cartons and should be placed in the green
compost container with food scraps.

(aa) “Food Waste” means Food Scraps, Food-Soiled Paper, and bio-plastics
labeled “BPI Certified Compostable”.

(bb) “Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29)
and shall be used for the purpose of storage and collection of Source Separated
Green Container Organic Waste.

(cc) “Greenhouse gas (GHG)” means carbon dioxide (CO2), methane (CH4), nitrous
oxide (N2O), sulfur hexafluoride (SF6), hydrofluorocarbons (HFC),
perfluorocarbons (PFC) and other fluorinated greenhouse gases.

(dd) “Greenhouse gas emission reduction” or “greenhouse gas reduction” means a
calculated decrease in greenhouse gas emissions relative to a project baseline
over a specified period of time, resulting from actions designed to achieve such a
decrease.

(ee) “Grocery Store” means a store primarily engaged in the retail sale of canned food;
dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area
that is not separately owned within the store where the food is prepared and
served, including a bakery, deli, and meat and seafood departments, or as
otherwise defined in 14 CCR Section 18982(a)(30).

(ff) “High Diversion Organic Waste Processing Facility” means a facility that is in
compliance with the reporting requirements of 14 CCR Section 18815.5(d) and
meets or exceeds an annual average Mixed Waste organic content Recovery rate
of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent
after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for
Organic Waste received from the “Mixed waste organic collection stream” as
defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR
Section 18982(a)(33).
(gg) “Inspection” means a site visit where a Jurisdiction or its designee, reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

"Inspection" for the purposes of Edible Food Recovery, means actions to review contracts and other records related to the recovery of edible food and may occur off-site via email and other forms of electronic communication, as well as the on-site review of an entity’s records and collection, handling and other procedures for the recovery of edible food to determine if the entity is complying with the requirements of this ordinance.

(hh) “Jurisdiction” is the entity responsible for ensuring solid waste, recycling and organics service is provided in accordance with SB 1383 guidelines.

(ii) “Jurisdiction Enforcement Official” means the city manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing the ordinance. See also “Designee for Edible Food Recovery.”

Guidance: Enforcement does not have to be limited to one person; however, the Jurisdiction may not delegate its authority to impose civil penalties required by the SB 1383 Regulations to a private entity pursuant to 14 CCR Section 18981.2(d).

(jj) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

 kk) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this ordinance.

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“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

“Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a black container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5). This definition is only applicable to select commercial and MF customers provided with a two container collection system. Three container collection system customers will use the black container waste definition instead.

Guidance: This definition is included in the event that Jurisdictions use the O2E system in the future for selected commercial and MF customers. That collection system envisions using a two-container system that allows Organic Waste, such as Food Waste, to be collected in the Black container. In these cases, materials in the black containers are to be processed at a High Diversion Organic Waste Processing Facility. Generators using the three container system would not be allowed to place Organic Waste in the Black container.

“Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses. Under the SB 1383 Regulations and in this Ordinance, Multi-Family Residential Dwellings with five (5) or more units are included under the definition of a Commercial Business per 14 CCR Section 18982(a)(6).

“MWELO” refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

Guidance: If jurisdiction has its own WELO that meets the MWELO standards then it can be listed here instead of MWELO.

“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-Local Entity” means the following entities that are not subject to the Jurisdiction’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

Guidance: Jurisdiction should include one or more of the items below as appropriate for Jurisdiction, and delete non-applicable items.

(1) Special district(s) located within the boundaries of the Jurisdiction, including ________ (insert names of special districts).
(2) Federal facilities, including military installations, located within the boundaries of the Jurisdiction, including ________ (insert names of federal facilities).

(3) Prison(s) located within the boundaries of the Jurisdiction, including ________ (insert names of prisons). Guidance: Private prisons are considered Commercial Businesses and should not be listed here.

(4) Facilities operated by the State park system located within the boundaries of the Jurisdiction, including ________ (insert names of State park facilities).

(5) Public universities (including community colleges) located within the boundaries of the Jurisdiction, including ________ (insert names of universities).

(6) County fairgrounds located within the boundaries of the Jurisdiction, including ________ (insert names of fairgrounds).

(7) State agencies located within the boundaries of the Jurisdiction, including ________ (insert names of State agencies).

(rr) “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).

(ss) “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

(tt) “Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, 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 by 14 CCR Section 18982(a).

(uu) “Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

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

(ww) “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).

(xx) "Prohibited Container Contaminants"

(1) For those generators provided with a three container collection system (blue, green and black): "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 Jurisdiction’s Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the Jurisdiction’s Green Container; (iii) discarded materials placed in the Black Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes that belong in Jurisdiction’s Green or Blue Container and (iv) Excluded Waste placed in any container.

(2) For those (limited commercial and MF) generators provided with two-container (blue/black) collection service for Source Separated Recyclable Materials and mixed materials): "Prohibited Container Contaminants" means the following: (i) discarded materials placed in a Blue Container that are not identified as acceptable Source Separated Recyclable Materials for Jurisdiction’s Blue Container; (ii) discarded materials placed in the Black Container that are identified as acceptable Source Separated Recyclable Materials, which are to be separately collected in Jurisdiction’s Blue Container; and, (iii) Excluded Waste placed in any container.

(yy) "Recovered Organic Waste Products" means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

(zz) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

(aaa) "Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

(bbb) "Regional Agency" means the South Bayside Waste Management Authority (SBWMA) as a regional agency as defined in Public Resources Code Section 40181.

(ccc) "Remote Monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers,
and Black Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

(ddd) “Renewable Gas” means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

(eee) “Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

(fff) “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.

(ggg) SB 1383 Eligible Mulch” means mulch eligible to meet the Annual Recovered Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4):

1. Produced at one of the following facilities:

   i. A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10).

   ii. A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,

   iii. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.

2. Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Sections 17852(a)(24.5)(A)1 through 3, as enforced with this ordinance.

Guidance: In order for mulch to qualify as a Recovered Organic Waste Product toward the Jurisdiction’s Annual Recovered Organic Waste Product Procurement Target, 14 CCR Section 18993.1 requires that Jurisdictions...
adopt an ordinance or similarly enforceable mechanism to require compliance with the land application standards specified above.

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

Guidance: “14 CCR” means Title 14 of the California Code of Regulations, and “27 CCR” means Title 27 of the California Code of Regulations.

(iii) SBWMA means the South Bayside Waste Management Authority, a regional agency, as defined in Public Resources Section 40181, serving its member agencies on recycling and waste issues.

(jjj) “Self-Hauler” means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A). “Self-Hauler” for the purposes of Edible food recovery, means a commercial edible food generator who holds a contract with and hauls edible food to a Food Recovery Organization or other site for redistribution according to the requirements of this ordinance.

(kkk) “Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.

(III) “Solid Waste” has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

1. Hazardous waste, as defined in the State Public Resources Code Section 40141.
2. Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
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(3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

(mmm) “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 ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Black container Waste or other Solid Waste for the purposes of collection and processing.

(nn) “Source Separated Blue Container Organic Waste” means Source Separated Organic Wastes that can be placed in a Blue Container including clean paper and cardboard.


(rr) “State” means the State of California.

(ss) “Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars ($2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

(ttt) “Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

(1) Supermarket.
(2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.

(3) Food Service Provider.

(4) Food Distributor.

(5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

(uuu) “Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

(1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

(2) Hotel with an on-site Food Facility and 200 or more rooms.

(3) Health facility with an on-site Food Facility and 100 or more beds.

(4) Large Venue.

(5) Large Event.

(6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

(7) A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

(vvv) “Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 10 of this ordinance:

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Guidance: Include the text highlighted above only if the Jurisdiction allows Single-Family generators to self-haul materials they generate. By virtue of adding this language and requirements on Self-Haulers in Section 10, Jurisdiction is thereby allowing self-hauling, and creating the required enforceable mechanism for self-hauling, as required in 14 CCR Section 18988.1(b).

(a) Shall subscribe to Jurisdiction’s Organic Waste collection services for all Organic Waste generated as described below in Section 4(b). Jurisdiction shall have the right to review the number and size of a generator’s containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust its service level for its collection services as requested by the Jurisdiction. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(b) Shall participate in the Jurisdiction’s three container Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.

Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated blue container organic waste and recyclable Materials in the Blue Container; and Black container Waste in the Black container, per jurisdictional and collector guidelines. Generators shall not place materials designated for the Black container into the Green Container or Blue Container.

SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESSES

Note that Commercial Businesses includes Multi-Family Residential Dwellings of five (5) and more units.

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

(a) Subscribe to Jurisdiction’s three container collection services and comply with requirements of those services as described below in Section 5(b), except Commercial Businesses that meet the Self-Hauler requirements in Section 10 of this ordinance. Jurisdiction shall have the right to review the number and size of a generator’s containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the Jurisdiction.
Guidance: Include the highlighted phrase in the preceding sentence if the Jurisdiction allows commercial businesses to self-haul materials they generate. By virtue of adding this language and requirements on Self-Haulers in Section 10, Jurisdiction is thereby allowing self-hauling, and creating the required enforceable mechanism for self-hauling, as required in 14 CCR Section 18988.1(b).

(b) Participate in the Jurisdiction’s Organic Waste collection service(s) by placing designated materials in designated containers as described below. Commercial businesses that meet the self-hauler requirements in Section 10 of this ordinance are excluded from this requirement.

Guidance: Include highlighted sentence above if jurisdiction allows self hauling.

(A) Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Blue container organic waste and source separated Recyclable Materials in the Blue Container; and Black container Waste in the Black container. Generator shall not place materials designated for the Black container into the Green Container or Blue Container.

(B) Generators that are offered two container service (this will be limited to a specified number of commercial and MF generators on an invitation only basis, based on waste quantities and type, and availability of new organics to energy processing system) shall place only source separated blue container organic waste and source separated recyclable materials in a blue container and all other materials (mixed waste) in a black container.

(c) Supply and allow access to an adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 5(d)(1) and 5(d)(2) below) for employees, contractors, tenants, and customers, consistent with Jurisdiction’s Blue Container, Green Container, and Black container collection service or, if self-hauling, per the Commercial Businesses’ instructions to support its compliance with its self-haul program, in accordance with Section 10.

(d) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

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(1) A body or lid that conforms with the container colors provided through the collection service provided by Jurisdiction, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

(e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in Section 5(d) pursuant to 14 CCR Section 18984.9(b).

(f) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the Jurisdiction’s Blue Container, Green Container, and Black container collection service or, if self-hauling, per the Commercial Businesses’ instructions to support its compliance with its self-haul program, in accordance with Section 10.

(g) Excluding Multi-Family Residential Dwellings, annually inspect Blue Containers, Green Containers, and Black containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

(h) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

(i) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Black container Waste (when applicable) and the location of containers and the rules governing their use at each property.

(j) Provide or arrange access for Jurisdiction or its agent to their properties during all Inspections conducted in accordance with Section 14 of this ordinance to confirm compliance with the requirements of this ordinance.
Accommodate and cooperate with Jurisdiction’s Remote Monitoring program for inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented at a later date, to evaluate generator’s compliance with Section 5(b). Should a remote monitoring program be used by the jurisdiction it shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Black containers.

At Commercial Business’s option and subject to any approval required from the Jurisdiction, implement a Remote Monitoring program for inspection of the contents of its Blue Containers, Green Containers, and Black containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Blue Containers, Green Containers, and Black containers subject to written notification to or approval by the Jurisdiction or its Designee.

If a Commercial Business wants to self haul, meet the Self-Hauler requirements in Section 10 of this ordinance.

Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Edible Food Recovery requirements, pursuant to the Edible Food Recovery provisions of this ordinance in Section 7.

SECTION 6. WAIVERS FOR GENERATORS

Guidance: SB 1383 Regulations allow Jurisdictions, at their option, to grant waivers to generators for physical space limitations, de minimis volumes, and/or collection frequency waivers. However, if waivers are used SB 1383 specifies under what conditions they may be granted, as reflected in the language presented herein. A Jurisdiction may waive a Commercial Business’ obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides specified documentation. Jurisdictions should delete any waivers they do not want to offer from (a), (b) and (c) below.

De Minimis Waivers: The Jurisdiction may waive a Commercial Business’ obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 6(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:

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(1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted below in (2) (A) or (B).

(2) Provide documentation that either:

(A) The Commercial Business’ total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in the Green Container comprises less than 20 gallons per week per applicable container of the business’ total waste; or,

(B) The Commercial Business’ total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in the Green Container comprises less than 10 gallons per week per applicable container of the business’ total waste.

(3) Notify Jurisdiction if circumstances change such that Commercial Business’s Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.

(4) Provide written verification of eligibility for de minimis waiver every 5 years, if Jurisdiction has approved de minimis waiver.

(b) Physical Space Waivers Jurisdiction may waive a Commercial Business’ or property owner’s obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the Jurisdiction has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 5.

Guidance: The type of evidence requested is required by regulations if physical space waivers are used. Note that Jurisdictions’ authority to issue a waiver cannot be delegated to a private entity, such as their hauler, pursuant to the SB 1383 Regulations (14 CCR Section 18984.11(c)).

A Commercial Business or property owner may request a physical space waiver through the following process:

(1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

(2) Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

(3) Provide written verification to Jurisdiction that it is still eligible for physical space waiver every five years, if Jurisdiction has approved application for a physical space waiver.
SECTION 7. REQUIREMENTS FOR TIER ONE AND TIER TWO COMMERCIAL EDIBLE FOOD GENERATORS

(a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

(b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section commencing January 1, 2024.

(d) Tier One and Tier Two Commercial Edible Food Generators shall comply with the following requirements:

(1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

(2) Use the CalRecycle Model Food Recovery Agreement or the contractual elements contained in the Requirements for Food Recovery Organizations and Food Recovery Services section of this Ordinance to contract with, or otherwise enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:

(A) The collection of Edible Food for Edible Food Recovery from the Tier One or Tier Two Commercial Edible Food Generator’s premises; or,

(B) the acceptance of Edible Food that the Tier One or Tier Two Commercial Edible Food Generator self-hauls to the Food Recovery Organization.

(3) Contract with Food Recovery Organizations and Food Recovery Services able to demonstrate a positive reduction in greenhouse gas emissions from their Edible Food Recovery activity. A list of Food Recovery Organizations and Food Recovery Services is available on the County of San Mateo Office of Sustainability website.

(4) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

(5) Allow Jurisdiction’s enforcement entity or their Designee for Edible Food Recovery to access the premises and inspect procedures and review records related to Edible Food Recovery and/or provide them electronically if requested by the Jurisdiction or the Designee for Edible Food Recovery.

(6) Keep records that include the following information:

Commented [DK4]: This language is provided by the County OOS, and is required by them for jurisdictions participating in the County OOS Edible Food Recovery Program. This is not an SB 1383 requirement.
(A) A list of each Food Recovery Organization or a Food Recovery Service that collects or receives Edible Food from the Tier One or Tier Two Commercial Edible Food Generator pursuant to a contract or written agreement as required by this Ordinance.

(B) A copy of all contracts or written agreements established under the provisions of this Ordinance.

(C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

   (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

   (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

   (iii) The established schedule or frequency that food will be collected or self-hauled.

   (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(7) No later than June 30th of each year commencing no later than July 1, 2022 for Tier One Commercial Edible Food Generators and July 1, 2024 for Tier Two Commercial Edible Food Generators, they shall provide an annual Edible Food Recovery report to the Designee for Edible Food Recovery that includes, but is not limited to, the following information: a list of all contracts with Food Recovery Organizations and Food Recovery Services, the amount and type of Edible Food donated to Food Recovery Organizations and Food Recovery Services, the schedule of Edible Food pickup by Food Recovery Organizations and Food Recovery Services, a list of all types of Edible Food categories they generate, such as “baked goods,” that are not accepted by the Food Recovery Organizations and Food Recovery Services with whom they contract, the contact information for the manager and all staff responsible for Edible Food Recovery, and certification that all staff responsible for Edible Food Recovery have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe. With the exception of the food safety and handling training certification, Tier One and Tier Two Commercial Edible Food Generators may coordinate with their Edible Food Recovery contractors to supply this information. The Designee for Edible Food Recovery will assist in the preparation of these reports by providing guidance and a template located on the County of San Mateo Office of Sustainability website.
(8) Mandate their Edible Food Recovery staff learn and follow the donation guidelines and attend trainings conducted by Food Recovery Organizations or Food Recovery Services with which they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of Edible Food to ensure the maximum amount of Edible Food is recovered and to avoid supplying food for collection that is moldy, has been improperly stored, or is otherwise unfit for human consumption.

(9) Tier One and Tier Two Commercial Edible Food Generators who self-haul Edible Food shall require those transporting Edible Food for recovery to obtain a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe and follow the best practices and standards for proper temperature control, methods, and procedures for the safe handling and transport of food.

(d) Nothing in this Ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

(d) Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

Guidance: The County of San Mateo’s OOS has requested this specific language as requirements for jurisdictions to participate in the County OOS Edible Food Recovery Program. SB 1383 Regulations do not require (c) through (m) below, with the exception of an annual report from food recovery organizations and services.

(a) Food Recovery Services operating in the Jurisdiction and collecting or receiving Edible Food directly from Tier One and/or Tier Two Commercial Edible Food...
Generators via a contract or written agreement established under the requirements of this Ordinance, shall maintain the following records:

(1) The name, address, and contact information for each Tier One and Tier Two Commercial Edible Food Generator from which the service collects Edible Food.

(2) The quantity in pounds of Edible Food by type collected from each Tier One and Tier Two Commercial Edible Food Generator per month.

(3) The quantity in pounds of Edible Food by type transported to each Food Recovery Organization or redistribution site per month.

(4) The name, address, and contact information for each Food Recovery Organization or redistribution site that the Food Recovery Service transports Edible Food to for Edible Food Recovery.

Food Recovery Organizations operating in the Jurisdiction and collecting or receiving Edible Food directly from Tier One and/or Tier Two Commercial Edible Food Generators via a contract or written agreement established under the requirements of this Ordinance, or receiving Edible Food from Food Recovery Services or from other Food Recovery Organizations, shall maintain the following records:

(1) The name, address, and contact information for each Tier One and Tier Two Commercial Edible Food Generator, Food Recovery Service, or other Food Recovery Organization from which the organization collects or receives Edible Food.

(2) The quantity in pounds of Edible Food by type collected or received from each Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Service, or other Food Recovery Organization per month.

(3) The name, address, and contact information for other Food Recovery Organizations or redistribution sites that the Food Recovery Organization transports Edible Food to for Edible Food Recovery.

Food Recovery Organizations and Food Recovery Services operating in the Jurisdiction shall inform Tier One and Tier Two Commercial Edible Food Generators from which they collect or receive Edible Food about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established as required by this Ordinance.

Commencing no later than July 1, 2022, Food Recovery Organizations and Food Recovery Services operating in the Jurisdiction shall report to the Designee for Edible Food Recovery the following:

a detailed Edible Food activity report of the information collected as required under

Commented [DK7]: The County of San Mateo’s OOS has requested this language as requirements for jurisdictions to participate in the County OOS Edible Food Recovery Program. SB 1383 Regulations do not require (c) through (m) below, with the exception of an annual report from food recovery organizations and services.
this Ordinance, including weight in pounds by type and source of Edible Food, the
schedule/frequency of pickups/drop-offs of Edible Food from/to each Edible Food
source or redistribution site, brief analysis of any necessary process improvements
or additional infrastructure needed to support Edible Food Recovery efforts, such
as training, staffing, refrigeration, vehicles, etc., and an up to date list of Tier One
and Tier Two Commercial Edible Food Generators with whom they have contracts
or agreements established as required under this Ordinance. The Designee for
Edible Food Recovery will assist in the preparation of these reports by providing
guidance and a template located on the County of San Mateo Office of
Sustainability website. This Edible Food activity report shall be submitted quarterly,
or at the discretion of the Designee for Edible Food Recovery, less frequently, and
shall cover the activity that occurred since the period of the last submission.

(e) Food Recovery Organizations and Food Recovery Services operating in the
Jurisdiction shall contact the Designee for Edible Food Recovery to discuss the
requirements of this Ordinance before establishing new contracts or agreements
with Tier One or Tier Two Commercial Edible Food Generators and in order to
maintain existing contracts or agreements for the recovery of Edible Food with
Tier One and Tier Two Commercial Edible Food Generators.

(f) In order to provide the required records to the State, the Jurisdiction, or the
Designee for Edible Food Recovery, and Tier One or Tier Two Commercial Edible
Food Generators, contracts between Food Recovery Organizations and Food
Recovery Services operating in the Jurisdiction and Tier One and Tier Two
Commercial Edible Food Generators shall either:

(1) Use the Model Food Recovery Agreement developed by the State of
California’s Department of Resources Recycling and Recovery
(Recycle,) and include a clause requiring the Food Recovery
Organization or Food Recovery Service to report to the Tier One and Tier
Two Commercial Edible Food Generators with whom they have contracts
the annual amount of Edible Food recovered and to inform them of the tax
benefits available to those who donate Edible Food to non-profits

(2) Or include in their contracts the following elements:

(A) List/description of allowable foods the Food Recovery
Organization/Food Recovery Service will receive.

(B) List/description of foods not accepted by the Food Recovery
Organization/Food Recovery Service.

(C) Conditions for refusal of food.

(D) Food safety requirements, training, and protocols.

(E) Transportation and storage requirements and training.
A protocol for informing the Tier One or Tier Two Commercial Edible Food Generators of a missed or delayed pickup.

Notice that donation dumping is prohibited.

Provisions to collect sufficient information to meet the record-keeping requirements of this Ordinance.

Fees/financial contributions/acknowledgement of terms for the pickup and redistribution of Edible Food.

Terms and conditions consistent with the CalRecycle Model Food Recovery Agreement.

Information supplying the Tier One or Tier Two Commercial Edible Food Generators with the annual amount of Edible Food recovered and informing them of the tax benefits that may be available to those who donate Edible Food to non-profits.

Contact name, address, phone number, and email for both responsible parties, including the current on-site staff responsible for Edible Food Recovery.

Food Recovery Organizations accepting self-hauling of Edible Food from Tier One and Tier Two Commercial Edible Food Generators must provide a schedule, including days of the week and acceptable times for drop-offs, and information about any limitation on the amount of food accepted, and/or the packaging requirements or other conditions of transport, such as, but not limited to, maintaining proper temperature control, and other requirements for the safe handling and transport of food, the self-hauler must follow for the Edible Food to be accepted.

Food Recovery Organizations and Food Recovery Services operating in the Jurisdiction shall demonstrate that all persons, including volunteers and contracted workers using their own vehicle, involved in the handling or transport of Edible Food, have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe.

Food Recovery Organizations and Food Recovery Services operating in the Jurisdiction shall use the appropriate temperature control equipment and methods and maintain the required temperatures for the safe handling of Edible Food recovered from Tier One and Tier Two Commercial Edible Food Generators for the duration of the transportation of the Edible Food for redistribution, including Edible Food transported by private vehicles.
(j) In order to ensure recovered Edible Food is eaten and to prevent donation dumping, Food Recovery Organizations and Food Recovery Services operating in the Jurisdiction shall provide documentation that all redistribution sites which are not themselves Food Recovery Organizations to which they deliver Edible Food have a feeding or redistribution program in place to distribute, within a reasonable time, all the Edible Food they receive. Such documentation may include a website address which explains the program or pamphlets/brochures prepared by the redistribution site.

(j) Food Recovery Organizations and Food Recovery Services operating in the Jurisdiction unable to demonstrate a positive reduction in GHG emissions for their Edible Food Recovery operational model cannot contract with Tier One and Tier Two Commercial Edible Food Generators in the Jurisdiction for the purpose of recovering Edible Food as defined in this Ordinance. Food Recovery Organizations and Food Recovery Services contracting to recover Edible Food from a Tier One and Tier Two Commercial Edible Food Generator for redistribution shall consult with the Jurisdiction’s Designee for Edible Food Recovery to document that their overall operational model will achieve a greenhouse gas emissions reduction. Such review may analyze route review, miles traveled for pick-up and redistribution, amount of food rescued, and the likelihood of consumption after redistribution.

(k) Food Recovery Organizations and Food Recovery Services operating in the Jurisdiction shall visually inspect all Edible Food recovered or received from a Tier One and Tier Two Commercial Edible Food Generator. If significant spoilage is found, or if the food is otherwise found to be unfit for redistribution for human consumption, Food Recovery Organizations and Food Recovery Services shall immediately notify the Designee for Edible Food Recovery using the process found on the County of San Mateo Office of Sustainability’s website. The notice shall include:

1. The type and amount, in pounds, of spoiled food or food unfit for redistribution for human consumption, or provide a photographic record of the food, or both.

2. The date and time such food was identified.

3. The name, address and contact information for the Tier One or Tier Two Commercial Edible Food Generator which provided the food.

4. The date and time the food was picked up or received.

5. A brief explanation of why the food was rejected or refused.

(l) Contracts between Tier One or Tier Two Commercial Edible Food Generators and Food Recovery Organizations or Food Recovery Services shall not include any language prohibiting Tier One or Tier Two Commercial Edible Food Generators from contracting or holding agreements with multiple Food Recovery...
Organizations or Food Recovery Services listed on the County of San Mateo Office of Sustainability website.

(m) Food Recovery Organizations and Food Recovery Services operating in the Jurisdiction shall conduct trainings and develop educational material such as donation guidelines and handouts to provide instruction and direction to Tier One and Tier Two Commercial Edible Food Generators with whom they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of Edible Food to ensure the maximum amount of Edible Food is recovered and to avoid the collection of food that is moldy, has been improperly stored, or is otherwise unfit for human consumption.

(n) Edible Food Recovery Capacity Planning

(1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other such studies, Food Recovery Services and Food Recovery Organizations operating in the Jurisdiction shall provide information and consultation to the Jurisdiction and its Designee for Edible Food Recovery upon request, regarding existing, or proposed new or expanded, Edible Food Recovery capacity that could be accessed by the Jurisdiction and its Tier One and Tier Two Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the Jurisdiction or its Designee for Edible Food Recovery shall respond to such requests for information within 60 days.

Guidance: SB 1383 Regulations (14 CCR Section 18992.2) require that counties conduct Edible Food Recovery capacity planning, in coordination with Jurisdictions and Regional Agencies, and consult with Food Recovery Organizations and services regarding existing, or proposed new and expanded, capacity that could be accessed by the Jurisdiction and its Commercial Edible Food Generators. Entities contacted by a Jurisdiction shall respond within 60 days regarding available and potential new or expanded capacity, pursuant to 14 CCR Section 18992.2(b), or another timeframe could be inserted within the ordinance that is less than 60 days, but this is not required.

(o) Allow Jurisdiction’s enforcement entity or their Designee for Edible Food Recovery to access the premises and inspect procedures and review records related to Edible Food Recovery and/or provide them electronically if requested by the Jurisdiction or the Designee for Edible Food Recovery.

(2) Provision for County ordinance only:

Guidance: SB 1383 Regulations require that counties conduct Food Recovery capacity planning in coordination with cities, special districts that provide solid waste collection services, and Regional Agencies within the county. The Cities,
Cities, special districts that provide solid waste collection services, and regional agencies located within the County shall conduct Edible Food Recovery capacity planning, in coordination with the County.

(A) If the County identifies that new or expanded capacity to recover Edible Food is needed, then each Jurisdiction within the County that lacks capacity shall:

(i) Submit an implementation schedule to CalRecycle and the County that demonstrates how it will ensure there is enough new or expanded capacity to recover the Edible Food currently disposed by Commercial Edible Food Generators within its Jurisdiction by the end of the reporting period set forth in 14 CCR Section 18992.3. The implementation schedule shall include the information specified in 14 CCR Section 18992.2(c)(1)(A).

(ii) Consult with Food Recovery Organizations and Food Recovery Services regarding existing, or proposed new and expanded capacity that could be accessed by the Jurisdiction and its Commercial Edible Food Generators.

(B) If the County finds that new or expanded capacity is needed, the County shall notify the Jurisdiction(s) that lack sufficient capacity.

(C) A City, West Bay Sanitary District, or SBWMA contacted by the County pursuant to this Section shall respond to the County’s request for information within 120 days of receiving the request from the County.

Guidance: If a City, West Bay Sanitary District or SBWMA fails to provide the necessary information within 120 days, the County is not required to include estimates for that Jurisdiction in its capacity plan in the report it submits pursuant to 14 CCR Section 18992.3.

SECTION 9. REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS

(a) Requirements for Haulers

Guidance: This Section addresses specific regulatory requirements that Jurisdictions must enforce on haulers and other entities as specified in 14 CCR, Division 7, Chapter 12, Article 7. There are other requirements in the SB 1383 Regulations on the Jurisdiction that the Jurisdiction may delegate to a hauler to...
comply with on their behalf such as Container Contamination requirements, outreach and education requirements, container color requirements, and container labeling requirements. Some of these requirements are more appropriately addressed in franchise agreements, hauler permits, or licensing systems.

Option 1: Exclusive franchised hauler

Option 2: Non-exclusive franchised haulers

Option 3: Permitted haulers

Option 4: Licensed haulers

Option 5: Include a combination of Options 1 through 4 as appropriate

(1) Exclusive Franchised hauler and ____ (Jurisdiction to insert other type(s) of hauler(s) from list above, if allowed) providing residential, Commercial, or industrial Organic Waste collection services to generators within the Jurisdiction's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the Jurisdiction to collect Organic Waste:

(A) Through written notice to the Jurisdiction annually on or before January 31, ____ (Jurisdiction to insert date), identify, for customers with three container collection, the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Wastes and black container waste.

(B) For customers with three container collection, transport Source Separated Blue Container Waste to a facility that recovers those materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

(C) For customers with two container collection, transport Source Separated Blue Container Waste to a facility that recovers those materials and black container waste to a high diversion organic waste processing facility.

(C) Obtain approval from the Jurisdiction to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that

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(2) Franchised hauler (Insert any other type of haulers approved from options listed above) with authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with Jurisdiction.

(b) Requirements for Facility Operators and Community Composting Operations

(1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon Jurisdiction request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the Jurisdiction shall respond within 60 days.

Guidance: SB 1383 Regulations include specific requirements for processing and facility standards. CalRecycle’s Model Franchise Agreement Tool includes more specific detail on those operative requirements for facilities. In addition to the capacity planning requirements, Jurisdictions may consider including a reference here to a franchise agreement, facility agreement, different section of the Jurisdiction’s municipal/County code, or other relevant document(s) where facility standards are specified.

(2) Community Composting operators, upon Jurisdiction request, shall provide information to the Jurisdiction to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the Jurisdiction shall respond within 60 days.

SECTION 10. SELF-HAULER REQUIREMENTS

Guidance: The SB 1383 Regulations (14 CCR Division 7, Chapter 12, Article 7) specify requirements for Self-Haulers (which includes back-haulers per the Self-Hauler definition of the SB 1383 Regulations). Jurisdictions that allow for self-hauling are required to adopt an ordinance or other enforceable mechanism for Self-Hauler regulation requirements. This Section 10 of the Model Ordinance provides language to document the Self-Hauler regulations. If Jurisdictions do not allow self-hauling, this Section 10 may be deleted. If self-hauling is allowed, this section will serve as the required ordinance for self hauling. If jurisdiction has existing rules that differ or add on additional responsibilities to self haulers, that policy, ordinance or code section should be referenced here.
(a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that Jurisdiction otherwise requires generators to separate for collection in the Jurisdiction’s organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

(b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

(c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the Jurisdiction. The records shall include the following information:

(1) Delivery receipts and weight tickets from the entity accepting the waste.
(2) The amount of material in cubic yards or tons transported by the generator to each entity.
(3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler’s vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

(d) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 10(c) to Jurisdiction if requested.

Guidance: This section (d) is optional. Self hauler reporting to the jurisdiction is not required by the regs, but self hauler separation of materials and record keeping as outlined in c above is required. Jurisdiction may include (d) above if it would like to reserve the option to collect that information. If self haulers are required to register with the jurisdiction, that should be added here.

(e) A residential Organic Waste Generator that self hauls Organic Waste is not required to record or report information in Section 10(c) and (d).
SECTION 11. COMPLIANCE WITH CALGREEN RECYCLING REQUIREMENTS

Guidance: SB 1383 Regulations (14 CCR Section 18989.1) require that a Jurisdiction, which is a city, County, or a city and County, adopt an ordinance or other enforceable requirement that requires compliance with C&D recycling requirements for Organic Waste commingled with C&D and for provision of adequate space for recycling and organics for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020 ("CALGreen SB 1383 Baseline Requirements"). These SB 1383 CALGreen related requirements only represent a subset of all CALGreen requirements. This Section 11 provides example language that is structured to fulfill this requirement related narrowly on the CALGreen SB 1383 Baseline Requirements.

SB 1383 Regulations (14 CCR Section 18989.1) cite specific date of effectiveness for CALGreen of January 1, 2020. Jurisdictions’ ordinances need to meet or exceed these CALGreen SB 1383 Baseline Requirements. If Jurisdictions have the ability to adopt an ordinance that allows for an “auto” update of the Jurisdiction’s ordinance as the CALGreen requirements change, that approach is allowable. Auto update should specify that if any changes in CALGreen result in standards less than those in the SB 1383 CALGreen baseline requirements, then the SB 1383 CALGreen standards will be maintained.

Jurisdictions with an ordinance or similarly enforceable mechanism requiring compliance with CALGreen can omit this Section. Jurisdictions should note that while these CALGreen provisions are included in this Model Ordinance, a Jurisdiction may determine it is more appropriate to include these CALGreen requirements in a separate ordinance or in a different, more relevant municipal code section (e.g., building or planning code). Also note that Jurisdictions are not required to address the CALGreen requirements through an ordinance if they prefer to use another type of enforceable mechanism such as through the building or planning code. In such case, Jurisdictions should delete this Section.

(a) Persons applying for a permit from the Jurisdiction for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the Jurisdiction. If the requirements of CALGreen are more stringent then the requirements of this Section, the CALGreen requirements shall apply.

Project applicants shall refer to Jurisdiction’s building and/or planning code for complete CALGreen requirements.

Guidance: Jurisdictions should amend sentence above to reflect where an applicant can find complete CALGreen requirements.

Commented [DK10]: This section applies to all the member agencies except the West Bay Sanitary District who can delete this section.

Commented [DK11]: This section can be included in the member agency’s ordinance as it is consistent with CalGreen, however, it does not include all of the CalGreen requirements. If member agencies do not have an enforcement component for these sections of CalGreen, including these requirements in this ordinance, provides the required enforcement component. Most jurisdictions will enforce these requirements, however, through their permitting process, and if that process can be documented, that is also allowable as the enforcement mechanism, and in that case, this section may be deleted.

Commented [DK12]: For those jurisdictions that have it incorporated into their building and/or planning code.
For projects covered by CALGreen, the applicants must, as a condition of the Jurisdiction's permit approval, comply with the following:

1. Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Blue Container, Green Container and black container materials, consistent with the three container collection program offered by the Jurisdiction, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020. Guidance: Note that the last portion of the requirement beginning with “….or comply with provisions of adequate space…” is intended to create an “auto-update” of the ordinance when CALGreen changes over time. Jurisdictions may choose to eliminate this provision at their option, if they prefer to update their ordinance each time CALGreen changes.

2. New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of Blue Container and Green Container materials, consistent with the three container collection program offered by the Jurisdiction, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

3. Comply with all applicable CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with Jurisdiction’s C&D ordinance, Section ___ of Jurisdiction’s municipal code, and all written and published Jurisdiction policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D. Jurisdiction’s C&D ordinance can be found at this link: ______________

Guidance: if Jurisdiction has a C&D ordinance, add a link above.

SECTION 12. MODEL WATER EFFICIENT LANDSCAPING

ORDINANCE REQUIREMENTS

Guidance: SB 1383 Regulations (14 CCR Section 18989.2) require that a Jurisdiction, which is a city, County, or a City and County, adopt an ordinance or other enforceable requirement that requires compliance with Sections 492.6(a)(3)(B), (C), (D), and (G) of the
MWELO as amended September 15, 2015 ("MWELO SB 1383 Baseline Requirements"). This Section 12 provides example language that is structured to fulfill this requirement related narrowly on the MWELO SB 1383 Baseline Requirements. As a result, this section does not broadly address all requirements of MWELO. Jurisdictions that already have a compliant WELO or other enforceable mechanism, (such as enforceable requirements through their planning or building code or landscape design review process) that cover the MWELO SB 1383 Baseline Requirements, can delete this section.

SB 1383 Regulations (14 CCR Section 18989.2) cite a specific date of effectiveness for MWELO of September 15, 2015. Jurisdictions' ordinances need to meet or exceed these MWELO SB 1393 Baseline Requirements. Including a provision that allows for an auto update of the ordinance as MWELO requirements change, is allowable, which is included below. If the “auto” update results in changes in MWELO with standards that are less than those in the MWELO SB 1383 Baseline Requirements, then the Jurisdiction will need to maintain the standards in the MWELO SB 1383 Baseline Requirements.

(a) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the Jurisdiction, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B), (D), and (G) of the MWELO, including sections related to use of Compost and mulch as delineated in this Section 12.

(b) The following Compost and mulch use requirements that are part of the MWELO are now also included as requirements of this ordinance. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7 and in the jurisdiction’s WELO, which can be found at ______________. Guidance: In the preceding sentence, Jurisdictions can insert link to its own WELO if the provisions are equal to or greater in stringency than Sections 492.6(a)(3)(B), (C), (D), and (G) of the September 15, 2015 MWELO, but proof of these requirements will need to be submitted to CalRecycle.

(c) Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 12(a) above shall:

(1) Comply with Sections 492.6 (a)(3)(B)(C), (D) and (G) of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:

(A) For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
(B) For landscape installations, a minimum three- (3-) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

(C) Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

(2) The MWELO compliance items listed in this Section are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 12(a) shall consult the full MWELO for all requirements.

(d) If, after the adoption of this ordinance, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELO September 15, 2015 requirements in a manner that requires Jurisdictions to incorporate the requirements of an updated MWELO in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

SECTION 13. PROCUREMENT REQUIREMENTS FOR JURISDICTION DEPARTMENTS, DIRECT SERVICE PROVIDERS, AND VENDORS

Guidance: This Section of the Model Ordinance includes example procurement requirements to address the Recovered Organic Waste Product and Recycled-Content Paper procurement requirements pursuant to SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 12). The first Section provides a simple statement of requirements for Jurisdiction’s departments to comply with the Jurisdiction’s purchasing policy, if the jurisdiction has a procurement policy or intends to adopt one. Procurement policies can be either adopted or amended to meet SB 1383 procurement regulatory requirements.

Jurisdictions should note that while Recycled-Content Paper provisions are included in this Ordinance, a Jurisdiction may choose to include these requirements in a separate ordinance or policy or in a relevant municipal code section. Jurisdictions may use any type of enforceable mechanism to document the requirements, including a policy, ordinance and/or municipal code section.
Requiring compliance with a separate procurement policy through this ordinance is one way to ensure that the provisions are enforceable, which is required for certain procurement provisions. For example, in order for mulch to qualify as a Recovered Organic Waste Product that the Jurisdiction may procure to comply with SB 1383 Regulations (14 CCR Division 7, Chapter 12, Article 12), the Jurisdiction must have an enforceable ordinance, or similarly enforceable mechanism, that requires the mulch to meet certain standards, pursuant to 14 CCR Section 18993.1(f)(4).

CalRecycle has a model procurement policy available on its website to assist jurisdiction’s in adopting a compliant procurement policy, should they choose to adopt one. That policy is intended to help a jurisdiction meet its organic waste product procurement requirements which go beyond recycled content paper procurement and include annual required quantities for jurisdictional procurement of organic waste products. A separate procurement policy could contain requirements that a Jurisdiction would place on its own departments, purchasers, and contractors for procuring Compost, mulch, Renewable Gas, electricity from biomass, and Recycled-Content Paper products and Printing and Writing Paper and Recovered Organic Waste Products. Refer to the Additional CalRecycle Resources section in the Guidance section of this Model for a link to the Model Procurement Policy.

(a) Jurisdiction departments, and direct service providers to the Jurisdiction, as applicable, must comply with the Jurisdiction’s Recovered Organic Waste Product procurement policy adopted on ________ and Recycled-Content Paper procurement policy adopted on ________ (Jurisdiction to amend the title(s) of the “procurement policy(ies)” to reflect their title and insert date in the blank).

Guidance: Jurisdictions may delete (a) if they do not plan on adopting a recovered organic waste product procurement policy to address recovered organic waste product procurement requirements and recycled content paper requirements in SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 12). The purpose of this statement is to identify the requirement for all Jurisdiction’s departments and direct service providers, if applicable, to comply with the policy(ies) and ensure the policy(ies) is(are) enforceable.

(b) All vendors providing Paper Products and Printing and Writing Paper shall:

Guidance: This Section presents Recycled-Content Paper requirements for Jurisdiction’s vendors to support Jurisdiction’s compliance with SB 1383 Regulations (14 CCR Section 18993.3). If Jurisdiction already has a procurement policy, it may need to be updated to address the Recycled-Content Paper procurement requirements in SB 1383 Regulations and to address Recovered Organic Waste Product procurement.

Section 22150 of the Public Contracts Code requires local governments to purchase recycled products instead of non-recycled products whenever recycled products are available at the same or a lesser total cost than non-recycled items, if fitness and quality are equal. Jurisdictions are not prohibited from either using a
price preference (usually 5 to 10 percent) for Recycled-Content Paper or requiring Recycled-Content Paper regardless of price. The options are presented below for consideration.

(1) If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items or at a total cost of no more than __% of the total cost for non-recycled items.

Guidance: Jurisdictions that do not want to include any pricing preference for Recycled-Content Paper should delete the highlighted text. Jurisdictions that want to establish a pricing preference for purchase of Recycled-Content Paper shall insert a percentage amount, and jurisdictions that want to require recycled content paper products and printing and writing paper regardless of price, can delete the phrase “whenever recycled paper products and printing and writing paper are available at the same or lesser total cost than non-recycled items.”


(3) Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.

(4) Certify in writing, on invoices or receipts provided, which may be electronic, that the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).

(5) Provide records to the Jurisdiction’s Recovered Organic Waste Product procurement recordkeeping Designee, in accordance with the Jurisdiction’s Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the Jurisdiction. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 13(b)(3) and 13(b)(4) of this ordinance for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why
Recycled-Content Paper Products or Printing and Writing Papers were not provided.

(c) All vendors providing compost to the jurisdiction shall:
Provide compost that meets the definition in Section 3(j) of this ordinance.

(d) All vendors providing mulch to the jurisdiction shall:
Provide SB 1383 eligible mulch that meets the definition in Section 3(eee) of this ordinance.

Guidance: Only compost and mulch that meets the definitions provided will be able to be counted toward jurisdiction’s annual recovered organic waste procurement target provided by CalRecycle.

SECTION 14. INSPECTIONS AND INVESTIGATIONS BY JURISDICTION

Guidance: SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 14) require Jurisdictions to inspect regulated entities for compliance and to take Enforcement Action against non-compliant entities including generators, Tier One and Tier Two Commercial Edible Food Generators, Food Recovery Organizations, Food Recovery Services, haulers, and Self-Haulers. This Section 14 provides example ordinance language to provide the Jurisdiction the right to conduct Inspections and investigations. Section 15 addresses enforcement. This Model language presents a simple approach to establishing the right to inspect or investigate. Jurisdictions have the option to expand on this to include more specificity, such as who has the authority to inspect, what entities may be inspected or investigated, and the protocols for such Inspections and investigations.

(a) Jurisdiction representatives and/or its designated entity, including the Designee for Edible Food Recovery are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Tier One and Tier Two Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws.

This Section does not allow Jurisdiction to enter the interior of a private residential property for Inspection.

For the purposes of inspecting Commercial Business containers for compliance with Section 5(b) of this ordinance, Jurisdiction may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to Section 5(k) of this ordinance. (Optional)
Guidance: Highlighted sentences in this section mentioning remote monitoring are optional in the event that jurisdiction and its hauler want to consider using a remote monitoring system to monitor for contamination. These highlighted sections can be removed if jurisdiction (and hauler) does not anticipate using remote monitoring.

(b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the Jurisdiction’s employee or its designated entity or Designee for Edible Food Recovery during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for: (i) access to an entity’s premises; (ii) installation and operation of Remote Monitoring equipment (optional); or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.

c) Any records obtained by a Jurisdiction or Designee for Edible Food Recovery during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

(d) Jurisdiction representatives, its designated entity, and/or Designee for Edible Food Recovery are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.

(e) Jurisdiction and Designee for Edible Food shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

Guidance: Jurisdiction is required to have a method to accept anonymous complaints and require that all complaints be made in writing with specified information. SB 1383 Regulations (14 CCR Section 18995.3) provide more guidance.

SECTION 15. ENFORCEMENT

Guidance: SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Articles 14 and 16) specify Jurisdiction’s requirements for enforcement and assessment of administrative civil penalties, respectively. Jurisdictions will need to make sure that the enforcement language in this section conforms with their own enforcement procedures and modify the language to match current and desired procedures. Jurisdictions can provide enforcement procedures and requirements stricter than those specified in the SB 1383 Regulations at its option.
(a) Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a Jurisdiction Enforcement Official, Designee for Edible Food Recovery, or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The Jurisdiction’s procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.

(b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. Jurisdiction or Designee for Edible Food Recovery may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. Jurisdiction or Designee for Edible Food Recovery may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of Jurisdiction or Designee for Edible Food Recovery staff and resources.

c) Responsible Entity for Enforcement

(1) Enforcement pursuant to this ordinance may be undertaken by the Jurisdiction Enforcement Official, which may be the city manager or their designee, legal counsel, or combination thereof, or Designee for Edible Food Recovery.

(A) Jurisdiction Enforcement Official(s) and Designee for Edible Food Recovery (for Edible Food Recovery provisions) will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.

(B) Jurisdiction Enforcement Official(s) and Designee for Edible Food Recovery (for Edible Food Recovery provisions) may issue Notices of Violation(s).

d) Process for Enforcement

(1) Jurisdiction Enforcement Officials or Designee for Edible Food Recovery and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring). Section 14 establishes Jurisdiction’s and Designee for Edible Food Recovery’s right to conduct Inspections and investigations.

(2) Jurisdiction or Designee for Edible Food Recovery may issue an official notification to notify regulated entities of its obligations under the ordinance.
Guidance: SB 1383 regulations require jurisdictions, upon finding prohibited container contaminants in a container (through annual random route reviews), to notify the generator of the violation and provide information regarding the generator’s requirement to properly separate materials into the appropriate containers. The notice may be left on the generator’s container, gate, or door at the time the violation occurs, and/or sent later. The regulations do not, however, require jurisdictions to impose administrative civil penalties on generators for violation of prohibited container contaminants requirements.

Jurisdiction should amend provision below to be consistent with its process for addressing prohibited container contaminants. If jurisdictions are not planning, in conjunction with its hauler to assess contamination penalties or contamination processing fees for additional costs of processing Contaminated Containers, then it should delete the highlighted section below. If jurisdictions choose to include these optional fees, this Section should be modified to specify the conditions and procedure for issuance of the fees. For example, a fee could be assessed per instance of contamination or could be assessed after certain number of consecutive instances, such as 1, 2 or 3.

(3) For incidences of Prohibited Container Contaminants found in containers, Jurisdiction will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within 30 days after determining that a violation has occurred. If the Jurisdiction observes Prohibited Container Contaminants in a generator’s containers on more than two (2) consecutive occasion(s), the Jurisdiction may assess contamination processing fees or contamination penalties on the generator.

For the purposes of Edible Food Recovery, for incidences of Prohibited Container Contaminants found in containers, the Jurisdiction or its Designee for Edible Food Recovery will issue a Notice of Violation to any Tier One or Tier Two Commercial Edible Food Generator found to have Prohibited Container Contaminants, such as Edible Food, in a container, or to any Food Recovery Organization or Food Recovery Service found to have Prohibited Container Contaminants, such as Edible Food recovered from a Tier One or Tier Two Edible Food Generator, in a container, which has not been documented by a complaint of spoilage as required in this Ordinance. Such notice will be provided by email communication immediately upon identification of the Prohibited Container Contaminants or within 3 days after determining that a violation has occurred. If the Jurisdiction or its Designee for Edible Food Recovery observes Prohibited Container Contaminants, such as Edible Food, in a Generator’s containers on more than two (2) consecutive occasion(s), the Jurisdiction or its Designee for Edible Food Recovery may assess contamination processing fees or contamination penalties on the Tier One or Tier Two Commercial Edible Food Generator.
(4) With the exception of violations of generator contamination of container contents addressed under Section 15(d)(3), Jurisdiction or Designee for Edible Food Recovery shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice. For the purposes of Edible Food Recovery, the Designee for Edible Food Recovery may issue a Notice of Violation requiring compliance within 7 days of issuance of the Notice.

(5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, Jurisdiction or Designee for Edible Food Recovery (for the Edible Food Recovery provisions) shall commence an action to impose penalties via an administrative citation and fine, pursuant to its Administrative citation and fine procedures.

For the purposes of Edible Food Recovery, the Designee for Edible Food Recovery shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the Edible Food Recovery Penalties provisions contained in this Ordinance.

Notices shall be sent to “owner” at the official address of the owner maintained by the tax collector for the Jurisdiction or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

(e) Penalty Amounts for Types of Violations

Guidance: SB 1383 Regulations (14 CCR Section 18997.2) require assessment of penalties with minimum penalty levels consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132, and 36900. Jurisdictions may choose to use the ranges of penalties included in the Government Code Section and listed below, or may choose to amend the penalty amounts shown below to establish a specific penalty level (rather than a range) for each violation type. Jurisdictions that choose to pick a specific penalty amount must select an amount that is somewhere in the range or higher than the amounts shown below, but no lower than the lowest value for each range listed below, and consistent with the ranges listed in Sections 53069.4, 25132, and 36900 of the Government Code. Jurisdictions should indicate if these penalties are consistent or different than administrative penalties in Jurisdiction’s code.

The penalty levels for violations unrelated to the Edible Food Recovery requirement are as follows:

(1) For a first violation, the amount of the base penalty shall be $50 to $100 per violation.
(2) For a second violation, the amount of the base penalty shall be $100 to $200 per violation.

(3) For a third or subsequent violation, the amount of the base penalty shall be $250 to $500 per violation.

The penalty levels for Edible Food Recovery violations are as follows:

(1) For a first violation, the amount of the base penalty shall be $100 to $200 per violation.

(2) For a second violation, the amount of the base penalty shall be $200-$500 per violation.

(3) For a third or subsequent violation, the amount of the base penalty shall be $500 to $2000 per violation.

(f) Compliance Deadline Extension Considerations

The Jurisdiction or County of San Mateo (the County for edible food generator and food recovery organization and services requirements) may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 15 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

(1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

(2) Delays in obtaining discretionary permits or other government agency approvals; or,

(3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Jurisdiction is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(g) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with Jurisdiction’s or Designee for Edible Food Recovery’s procedures in the Jurisdiction’s or Designee for Edible Food Recovery's codes for appeals of administrative citations. Evidence may be presented at the hearing. The Jurisdiction or Designee for Edible Food Recovery will appoint a hearing officer who shall conduct the hearing and issue a final written order.
Guidance: Jurisdiction shall select an employee or Designee to act as hearing officer who is different from their enforcement official.

(h) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, Jurisdiction or Designee for Edible Food Recovery (for edible food generator and food recovery organization and service requirements) may conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if Jurisdiction or Designee for Edible Food Recovery determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, educational materials shall be provided to the entity describing its obligations under this ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

Guidance: Jurisdictions may initiate the education period prior to January 1, 2022, but no later than that date pursuant to SB 1383 Regulations (14 CCR Section 18995.1(a)(4)).

(i) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the Jurisdiction or Designee for Edible Food (Designee for Edible Food determination only for Tier 1 and Tier 2 Commercial Edible food generator and food recovery organization and service requirements) determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 15, as needed.

Guidance: 14 CCR Section 18995.4(a)(1) requires that Jurisdictions initiate Enforcement Actions no later than January 1, 2024. Jurisdiction may consider having penalties start earlier than January 1, 2024. If so, it shall amend the dates in Sections 15(i) and 15(j) above to fit its commencement date for enforcement.

SECTION 16. EFFECTIVE DATE

This ordinance shall be effective commencing on January 1, 2022.
SB 1383
Reducing Short-Lived Climate Pollutants in California

SB 1383 Model Mandatory Organics Disposal Reduction Ordinance
SBWMA Board of Directors Meeting
July 22, 2021
## SB 1383 Requirements

<table>
<thead>
<tr>
<th>Year</th>
<th>Requirement</th>
</tr>
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<tbody>
<tr>
<td>2020</td>
<td>50 Percent Reduction in Landfilled Organic Waste</td>
</tr>
<tr>
<td>2022</td>
<td>Regulations Take Effect</td>
</tr>
<tr>
<td>2025</td>
<td>75 Percent Reduction in Landfilled Organic Waste</td>
</tr>
<tr>
<td>2025</td>
<td>20 Percent Increase in Recovery of Currently Disposed Edible Food</td>
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</tbody>
</table>
Starting January 1, 2024, jurisdictions must take action against non compliant entities.

**2022**
- Provide Organics Collection Service to All Residents and Businesses
- Establish Edible Food Recovery Program
- Conduct Education and Outreach
- Procurement
- Capacity Planning

**2024**
Objectives of the Model

- Support SBWMA Member Agencies with planning, implementation, and compliance with SB 1383
- Provide resources and guidance
- Increase understanding of regulations and compliance strategies
- Present an example ordinance that allows for customization unique to each Member Agency
Model Ordinance

- Ordinance and policies can stand-alone
  - Member Agencies may amend their existing language and use Model provisions
- Regulatory language reflected
- Guidance notes
Important Considerations

- Review SB 1383 requirements while using Model
  - Each Member Agency is responsible for achieving compliance
- Recognize the Model provides example language ONLY
  - Customization and modification is expected
General Guidance and Member Agency Content

General guidance notes

Member Agency specific content

Guidance: Most of the following definitions are excerpted from the SB 1383 Regulations (14 CCR Section 18982). There are additional definitions in the SB 1383 Regulations that are not included here. Jurisdiction may want to review that list of definitions in 14 CCR Section 18982 to determine whether it wants to add any additional definitions to its ordinance. Jurisdiction may also choose to delete definitions not appropriate for its conditions and/or to include additional definitions that are appropriate for its ordinance.

(a) “Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

(b) “Black Container” has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Black Container Waste.
Delegation of Responsibilities

- Enforcement by Member Agency or another public agency
- Penalties for non-enforcement
Organization of the Model Ordinance
Section 1: Purpose and Findings

Focus

- Purpose, highlights applicable laws (AB 939; AB 341; AB1826; and SB 1383)
- Ordinance is broadly stated; not limited to SB 1383 requirements

Guidance and Customization

- Member Agencies may customize language based on specific diversion goals and/or policies (e.g., zero waste goals, greenhouse gas reduction policies)
Section 2: Title of Ordinance

Focus

- Ordinance title provided: “Mandatory Organics Disposal Reduction Ordinance”
- Ordinance title not specific to SB 1383 requirements
Section 3: Definitions

Focus
- Reflective of SB 1383 definitions; not comprehensive
  - Key terms based on container color and material type
  - Commercial businesses include multi-family dwellings with 5+ units
- Intentionally broad to allow for customization

Guidance and Customization
- Tailor (add or delete) based on jurisdiction needs
- Review non-local entities definition
Section 4: Single Family Standard Compliance Approach

Focus

- Framework for compliant collection system
- Service to residents
- Source separation requirements based on collection system type

Guidance and Customization

- Modify based on allowance of organic material self-hauling
Section 5: Commercial Businesses– Standard Compliance Approach

Focus

- Framework for compliant commercial businesses, including multi-family (five or more units) collection system
- Service to commercial businesses

Guidance and Customization

- Modify based on allowance of organic material self-hauling
Section 6: Generator Waivers

Focus
- Offer applicable collection waivers, as stated in SB 1383

Guidance and Customization*
- Document waivers for the standard compliance approach
- Note generator waivers are optional; not required by SB 1383
- Waiver verification must be retained in writing for reporting

* Waivers will be managed by SBWMA
Section 7: Commercial Edible Food Generators

Focus

- Define and provide enforceable mechanism for requiring commercial edible food generators to use food recovery programs

Guidance and Customization

- Customize based on San Mateo County Office of Sustainability Edible Food Recovery Ordinance language
Section 8: Food Recovery Organizations/Services

Focus

- Provide guidelines for record keeping of food recovery organizations/services activities

Guidance and Customization

- Customize based on San Mateo County Office of Sustainability Edible Food Recovery Ordinance language
Section 9: Haulers

Focus

○ Address specific regulatory requirements that jurisdiction must enforce on haulers to be SB 1383 compliant

Guidance and Customization

○ Address some requirements in the franchise agreement rather than the ordinance
○ Cross-reference requirements in ordinance to other hauler documents
○ Modify the language for exclusive, nonexclusive, and permitted haulers
Section 10: Self-Hauler

Focus

- Address self-hauler regulations for SB 1383 compliance

Guidance and Customization

- Require commercial self-haulers recordkeeping
- Note residential organic self-hauler recordkeeping and reporting is not required by SB 1383
Section 11: Compliance with CALGreen

Focus
- Require a jurisdiction to have an enforceable mechanism to comply with select CALGreen standards

Guidance and Customization
- Exclude if the jurisdiction has an existing CALGreen ordinance
- Refer to Member Agency building and/or planning code for complete compliance with CALGreen
- Incorporate CALGreen updates (optional) in different municipal code section
Section 12: Model Water Efficient Landscape Ordinance (MWELO)

Focus
- Require jurisdiction to meet or exceed select MWELO standards for SB 1383 compliance

Guidance and Customization
- Address MWELO standards (broadly) related to SB 1383
- Incorporate MWELO standards into the building or planning municipal code section, if required
Section 13: Procurement Requirements for Jurisdiction Depts., Direct Service Providers, and Vendors

Focus
- Assist jurisdictions in meeting the procurement requirements contained in SB 1383 regulations
- Specify jurisdiction’s departments to comply with procurement policy
- Establish recycled-content paper procurement vendor requirements

Guidance and Customization
- Include requirements in jurisdiction’s separate procurement policy
  - Separate procurement policy is not required by SB 1383
- Choose general language with further customization in the policy
- Modify paper purchasing with price preference criteria
Section 14: Inspections by Jurisdiction Representatives

Focus

- Provide enforceable mechanism to perform inspections, as required by SB 1383

Guidance and Customization

- Develop administrative and tracking process to accept and follow-up on anonymous complaints (jurisdiction recommended requirement)
Section 15: Enforcement

Focus
- Provide enforceable mechanism to enact penalties for non-compliance

Guidance and Customization
- Establish penalties that meet at least the SB 1383 penalty levels
  - Note enforcement table with penalty amounts in Model is optional
- Consider whom will have enforcement responsibilities
  - City manager or designee, or county agency enforcement official
- Provide education to non-compliant entities in 2022 and 2023
- Assess civil penalties no later than January 1, 2024
- Acknowledge jurisdiction is ultimately responsible for enforcement
- Modify specifics of enforcement to align with jurisdiction practices
Section 16: Effective Date

Focus
- Defines effective date of the ordinance

Guidance and Customization
- Make ordinance effective no later than January 1, 2022
- Include option for earlier effective date to allow more time for implementation and compliance
Customization Tips

- Modify language, particularly defined terms
- Blend existing provisions with the Model provisions, subject to review and revision
- Delete guidance notes and unused options
STAFF REPORT

To: SBWMA Board Members
From: Tj Carter, Recycling and Compliance Program Manager
Date: July 22, 2021 Board of Directors Meeting
Subject: Resolution Approving a Contract with Citizen Communications, dba “Recyclist” in an amount not to exceed $82,900 for SB1383 Recordkeeping Compliance

Recommendation
It is recommended that the SBWMA Board of Directors approve Resolution No 2021-25 attached hereto authorizing the approval a contract with Citizen Communications, dba “Recyclist” in an amount not-to-exceed $82,900 for SB 1383 record keeping compliance.

Summary
As detailed in the SBWMA SB 1383 Compliance Plan (approved November 2020) and Implementation of SB 1383 MOU (approved June 2021), the SBWMA will be the primary recordkeeper and reporting agency for all the information and documents required in the SB 1383 Implementation Record. To accomplish this, SBWMA staff are recommending the SBWMA Board of Directors approve a contract with the cloud-based system Recyclist.

Analysis
Recyclist creates cloud-based solutions to manage solid waste programs. Recyclist’s Software as a Service products provide visibility into waste stream data, ways to track commercial outreach and compliance, and digital recycling education for residents. Founded in 2015 in Truckee, California, the company is certified as both a SB (Small Business) and a DBE (Disadvantaged Business Enterprise). Recyclist currently works with 50+ public agencies in California.

One of the most cumbersome aspects of SB 1383 regulations is the requirement for all jurisdictions to keep comprehensive records called “The Implementation Record.” This includes records of all outreach activities, waivers granted, copies of educational resources sent out, procurement receipts, enforcement actions including monetary penalties issued, container contamination, and complaints, etc for each Member Agency. Recyclist would be used as the main source to keep the Implementation Records. Multiple accounts can be created under SBWMA’s subscription allowing each Member Agency to edit, upload, and access their own data. If approved by the SBWMA Board of Directors, SBWMA staff would schedule a technical workshop in Fall 2021 with Member Agency staff on using the tool.

With SBWMA maintaining records on behalf of all Member Agencies there is a significant cost savings. Recording the data for the entire service area, eliminates each Member Agency needing to pay the flat rate for Base Subscription and set-up fees. Below is a summary of the costs associated with the tool (Table 1).
### Table 1: Recyclist Cost Breakdown

<table>
<thead>
<tr>
<th></th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Subscription</td>
<td>$24,900</td>
<td>$24,900</td>
</tr>
<tr>
<td>JPA Shared Access</td>
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<td>Data Imports</td>
<td>$1,000/data set</td>
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<tr>
<td>JPA Jurisdiction-Level Access</td>
<td>$22,000/jurisdiction</td>
<td>$22,000</td>
</tr>
<tr>
<td>Waiver Issuance Tool</td>
<td>$5,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>One-Time Set-up Fee</td>
<td>$5,000</td>
<td>$5,000</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$82,900</strong></td>
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</tbody>
</table>

**Definitions:**

**JPA Shared Access**
- All users have access to all data in the Program Tracker, regardless of jurisdiction.
- Does not house multiple SB 1383 Implementation Records. Data specific to a jurisdiction can be exported to be stored in a separate location.

**JPA Jurisdiction-Level Access Add-On**
- Includes additional permissions and security levels. Jurisdiction users are restricted to viewing, creating, editing, deleting and exporting data only for their own jurisdiction. The JPA or contract owner has full access to all data. Houses multiple SB 1383 Implementation Records, one for each jurisdiction.
- Haulers may access all data (if they are the exclusive service provider to all jurisdictions) or data for a single jurisdiction. Haulers cannot access data for multiple (but not all) jurisdictions.
- Some visual charts and reports may have modified functionality and/or be inaccessible to jurisdiction users.
- JPA Jurisdiction-Level Access Add-On must be implemented during initial configuration of the Program Tracker, not available after launch.

Though the SBWMA will be leading most of the recordkeeping and reporting, the County of San Mateo Office of Sustainability (OOS) will be recording and reporting on the edible food recovery program. The OOS has already contracted Recyclist for their program. An added benefit to the SBWMA would be the ability to easily share data between the two program trackers.

**Background**

In September 2016, SB 1383 (Lara, Chapter 395, Statutes of 2016) established statewide methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants in various sectors of California’s economy. It includes statewide goals to reduce the disposal of organic waste and recover edible food for human consumption. To accomplish these statewide goals, SB 1383 regulations, which were approved on November 3rd 2020, include prescriptive requirements for jurisdictions related to recycling and organics collection, inspection, and enforcement policies and programs and edible food recovery. The SBWMA and its Member Agencies need to comply with nearly all SB 1383 requirements by January 1, 2022 with the significant exception that enforcement actions do not need to commence until January 1, 2024.

More information regarding SB 1383 can be found online at [www.calrecycle.ca.gov/organics/slcp/](http://www.calrecycle.ca.gov/organics/slcp/).
**Fiscal Impact**

The start-up costs plus annual subscription cost for Recyclist will be $82,900. Funding for a recordkeeping software was anticipated in the $489,813 FY21 Mid-Year Budget for SB 1383. Specifically, funds have been factored into the adopted mid-year budget and will be drawn from expense worksheet line item 67 ($150,000).

**Attachments:**

Resolution 2021-25

Exhibit A – Software as a Service (SaaS) Agreement with Citizen Communications, LLC dba Recyclist for SB 1383 Recordkeeping Software
RESOLUTION NO. 2021-25

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS APPROVING A CONTRACT WITH CITIZEN COMMUNICATIONS, DBA RECYCLIST IN AN AMOUNT NOT TO EXCEED $82,900 FOR SB1383 RECORDKEEPING COMPLIANCE

WHEREAS, the State of California passed SB 1383 (Chapter 395, Statutes of 1383), which required the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, CalRecycle has finalized regulations and revised Chapter 12 (Short-lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations (“SB 1383 Regulations”); and

WHEREAS, the SB 1383 Regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations including regulation of waste haulers and generators of organic waste and edible food, and enforcement mechanisms and penalties for violations.

WHEREAS, Jurisdictions may designate a public or private entity to fulfill its requirements of of Chapter 12: Short-lived Climate Pollutants, including utilizing a Joint Powers Authority, except that the Jurisdictions shall remain ultimately responsible for compliance; and

WHEREAS, The SBWMA Board of Directors adopted the SB 1383 Compliance Plan in November 2020 outlining the roles and responsibilities between SBWMA and its Member Agencies; and

WHEREAS, The SBWMA has been designated as the primary recordkeeper of SB 1383 requirements per the Implementation of SB 1383 MOU approved by the SBWMA Board of Directors in June 2021, and the need for an advance software to track requirements on behalf of all Member Agencies; and

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves the contract with Citizen Communications, dba Recyclist in an amount not to exceed $82,900 for SB1383 recordkeeping compliance hereto attached as Exhibit A.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 22nd day of July, 2021, by the following vote (on next page):
I HEREBY CERTIFY that the foregoing Resolution No. 2021-25, was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on July 22, 2021.

ATTEST:

Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board

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<th>No</th>
<th>Abstain</th>
<th>Absent</th>
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<th>No</th>
<th>Abstain</th>
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</table>
SAAS SERVICES ORDER FORM

Customer: South Bayside Waste Management Authority

Contact: TJ Carter

Address: 610 ELM STREET

Phone: (650) 802-3500

SAN CARLOS, CA 94070

Email: tcarter@rethinkwaste.org

Services: Recyclist Program Tracker (the "Service(s)").

Initial Service Term: 12 months, commencing upon completion of implementation.

Service Capacity: Management of regulatory compliance and outreach for commercial and multi-family waste generators within the South Bayside Waste Management Authority service area.

Implementation Services: Company will use commercially reasonable efforts to provide Customer the services described in the Statement of Work ("SOW") attached as Exhibit A hereto ("Implementation Services"), and Customer shall pay Company the Implementation Fee in accordance with the terms herein.

Service Fees: Base Annual Subscription Fee billed upon completion of Implementation Services, subject to the terms of Section 4 herein. Data Import Fees billed upon receipt of each data set, subject to the terms of Section 4 herein.

Implementation Fees (one-time): Payable upon execution of the Agreement, subject to the terms of Section 4 herein.

<table>
<thead>
<tr>
<th>SERVICE FEES</th>
<th>PRICE</th>
<th>QTY</th>
<th>SUBTOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program Tracker - Base Annual Subscription Fee</td>
<td>$24,900.00</td>
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<td>Add-On: Waiver Issuance Tool</td>
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Total Annual Fees $73,900.00

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<th>IMPLEMENTATION FEES</th>
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<tbody>
<tr>
<td>Program Tracker Implementation Fee</td>
<td>$5,000.00</td>
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<td>$5,000.00</td>
</tr>
</tbody>
</table>

Total One-Time Fees $5,000.00
SAAS SERVICES AGREEMENT

This SaaS Services Agreement ("Agreement") is entered into on this 1st day of August 2021 (the "Effective Date") between Citizen Communications, LLC dba Recyclist with a place of business at 12313 Soaring Way, Suite 1D, Truckee CA 96161 ("Company"), and the Customer listed above ("Customer"). This Agreement includes and incorporates the above Order Form, as well as the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form unless expressly identifying this Agreement, specifically referencing the provisions of this Agreement to be altered or superseded and signed by the parties after the date hereof.

Citizen Communications, LLC dba Recyclist

Name: 
Title: 
Date:  

South Bayside Waste Management Authority

Name: 
Title: 
Date:  

2 of 6
1. **SAAS SERVICES AND SUPPORT**

1.1 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services. As part of the registration process, Customer will identify an administrative user name and password for Customer’s Company account. Company reserves the right to refuse registration of, or cancel passwords it deems inappropriate.

1.2 Subject to the terms hereof, Company will provide Customer with reasonable technical support services in accordance with Company’s standard practice.

2. **RESTRICTIONS AND RESPONSIBILITIES**

2.1 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services (“Software”); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third; or remove any proprietary notices or labels. With respect to any Software that is distributed or provided to Customer for use on Customer premises or devices, Company hereby grants Customer a non-exclusive, non-transferable, non-sublicensable license to use such Software during the Term only in connection with the Services.

2.2 Further, Customer may not remove or export from the United States or allow the export or re-export of the Services, Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Software and documentation are “commercial items” and according to DFAR section 252.227-7014(a)(1) and (5) are deemed to be “commercial computer software” and “commercial computer software documentation.” Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

2.3 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with its intended functionality and all applicable laws and regulations. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, “Equipment”). Customer is responsible for maintaining the confidentiality of the passwords assigned to Customer and its users. Customer will immediately notify Company if it becomes aware that a password is lost, stolen, disclosed to an unauthorized third party, or otherwise compromised. Company will be responsible for any and all activities made pursuant to the licenses granted to Customer’s hereunder and any of its users’ or Equipment or the access credentials to the Services. Customer shall, and shall ensure its users, use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services, and notify Company promptly of any unauthorized access or use. Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys’ fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer’s use of Services. Although Company has no obligation to monitor Customer’s use of the Services, Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

3. **CONFIDENTIALITY; PROPRIETARY RIGHTS**

3.1 Each party (the “Receiving Party”) understands that the other party (the “Disclosing Party”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “Proprietary Information” of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to Company to enable the provision of the Services (“Customer Data”). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

3.2 Customer shall own all right, title and interest in and to the Customer Data. Company shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.
3.3 Notwithstanding anything to the contrary, Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to (a) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, and (b) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

4. PAYMENT OF FEES

4.1 Customer will pay Company the then applicable fees described in the Order Form for the Services and Implementation Services in accordance with the terms therein (the “Fees”). If Customer’s use of the Services exceeds the Service Capacity set forth on the Order Form or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Company’s customer support department.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service. Customer shall be responsible for all taxes associated with Services other than U.S. taxes based on Company’s net income.

4.3 Following the Initial Service Term, the annual subscription fee shall automatically increase (and annually thereafter) by an amount equal to the greater of five percent (5%) or one hundred percent (100%) of the percentage increase in the Consumer Price Index, Urban Consumers, All Cities Average 1982-84 Equals 100, (CPI-U) during the prior calendar year as published by the U.S. Department of Labor or any successor index, compounded annually from the Effective Date.

5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the “Term”), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days’ notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, Company will make all Customer Data available to Customer for electronic retrieval for a period of thirty (30) days, but thereafter Company may, but is not obligated to, delete stored Customer Data. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. WARRANTY AND DISCLAIMER

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company’s reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, COMPANY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED “AS IS” AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

7. INDEMNITY

Company shall indemnify Customer from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Company is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Company will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the Service (a) not supplied by Company, (b) made in whole or in part in accordance with Customer specifications, (c) that are modified after delivery by Company, (d) combined with other
products, processes or materials where the alleged infringement relates to such combination, (e) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (f) where Customer’s use of the Service is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by Company to be infringing, Company may, at its option and expense (i) replace or modify the Service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (ii) obtain for Customer a license to continue using the Service, or (iii) if neither of the foregoing is commercially practicable, terminate this Agreement and Customer’s rights hereunder and provide Customer a refund of any prepaid, unused fees for the Service.

8. LIMITATION OF LIABILITY

8.1 Customer acknowledges, understands and agrees that Company utilizes third party hardware, software and hosting solutions in connection with the Services (“Third Party Solutions”) in order to economically provide the Services to Customer. Customer recognizes that the quality of the Services is dependent upon such Third Party Solutions and that Company does not have nor exercise significant bargaining power with such Third Party Solutions so as to reasonably control the Customer’s experience resulting from such Third Party Solutions, and therefore notwithstanding any other provision of this Agreement to the contrary, agrees that Company shall not be liable or in breach of this Agreement to the extent such liability or breach is the result of the acts or omissions of Third Party Solutions or their providers.

8.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY’S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO COMPANY FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUBJECT TO THE INDEMNIFICATION OBLIGATIONS OF COMPANY HEREUNDER.

9. MISCELLANEOUS

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with Company’s prior written consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys’ fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions.
EXHIBIT A

Statement of Work

Implementation of the Recyclist Program Tracker includes:

- Configuring data import process to align with Customer’s data and programmatic objectives
- Importing initial compliance records
- Setting up user accounts and permissions
- Customizing database fields to meet reasonable customer needs
- Customizing reports to meet reasonable customer needs

Base subscription includes:

- Commercial and multi-family generator database for tracking:
  - Service levels
  - Contact information
  - AB 1826 & AB 341 compliance
  - SB 1383 compliance (rolling out in phases)
  - Log of all outreach activities

- CRM features to schedule and track outreach to commercial generators, including:
  - Site Visits
  - Phone Calls
  - Emails
  - Photos taken
  - Task lists and calendars
  - Task reminders and summaries

- Customization of standard forms and reports to meet reasonable customer needs, such as:
  - Tracking local programs and pilot projects
  - Tracking compliance with state, regional and/or local ordinances
  - Complex customization projects necessitating new forms and/or reports may require additional professional services. Any additional consulting, training, development, configuration, development and/or integration services may be out of scope and subject to Company agreeing to provide such services pursuant to a change order to this SOW.

- Reports in list and/or graph format, with ability to search, sort and filter, and to export to Excel, PDF, or image file
- Cloud-based database that syncs data across all users in real time
- Web-based application, with mobile app for iOS and Android (requires internet connection)
- Secure web hosting with weekly backups
- Support via email, Monday-Friday 9am-5pm PT
- Support via phone by appointment
- Unlimited users

Data Import includes:

- Processing and importing a single-tab Excel worksheet or CSV file
- For service record data imports:
  - Importing new accounts, identifying possibly closed accounts and service-level changes
  - Updating generator compliance statuses to align with new data
- Custom Data Template Surcharge applicable to any Data Imports not delivered in the standard Recyclist Service Record Template

13090458_v7
STAFF REPORT

To:        SBWMA Board Members
From:      Julia Au, Sr. Outreach, Education and Compliance Manager
Date:      July 22, 2021 Board of Directors Meeting
Subject:   Resolution Recommending a letter to be sent to CalRecycle regarding Convenience Zones

Recommendation
It is recommended that the SBWMA Board of Directors approve Resolution No 2021-26 attached hereto authorizing the following action:

Resolution approving a letter to be sent to CalRecycle regarding Convenience Zones

Summary
Small grocery stores that sell California Redemption Value (CRV) beverages located within a convenience zone, which is a half mile radius around a supermarket needs to have a CRV recycler within its boundaries. If there is no certified recycling center, market locations in that zone that sell CRV materials have been contacted by CalRecycle to either become a redemption location or pay a daily fee of $100. During these unprecedented economic times caused by the COVID-19 pandemic, many small businesses are struggling and we are writing to CalRecycle to look into correcting the issues surrounding convenience zone so small independently owned stores do not have to pay the daily $100 fine.

Background
The CRV program, along with curbside recycling, has led to increased recycling rates in California and has helped recycling centers throughout the State prosper until recently, when the change in recyclables markets and declining scrap value forced many centers to close.

In August 2019, the SBWMA ceased redemption activities for CRV beverage containers at the Shoreway Environmental Center due to a large increase in traffic and related safety issues following the widespread closures of other local CRV redemption centers in San Mateo County and throughout the State several weeks prior. The SBWMA Board was given an update about the closure at its September and January 2020 Board meetings when staff recommended a permanent closure of the CRV redemption part of the Shoreway Public Recycling Center. The SBWMA concurred with Staff’s recommendation to terminate this service at the Shoreway Facility.

Fiscal Impact
None.

Attachments:
- Resolution 2021-26
- Exhibit A - Letter to be sent to CalRecycle regarding Convenience Zones
RESOLUTION NO. 2021-26
RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS RESOLUTION RECOMMENDING A LETTER TO BE SENT TO CALRECYCLE REGARDING CONVENIENCE ZONES

WHEREAS, the California Redemption Value (CRV) program has been a success since its inception in 1986, but has seen shifts since the change in the recycling markets and declining scrap value forced many centers to close and,

WHEREAS, CalRecycle oversees the CRV program that includes the set up of Convenience Zones and,

WHEREAS, small businesses have been negatively impacted by these requirements and as such the SBWMA would like CalRecycle to look into mitigating these adverse impacts.

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves a letter to be sent to CalRecycle regarding Convenience Zones, hereto attached as Exhibit A.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 22nd day of July, 2021, by the following vote:

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I HEREBY CERTIFY that the foregoing Resolution No. 2021-26 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on July 22, 2021.

ATTEST: Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board
Ms. Rachel Wagoner, Director  
CalRecycle  
1001 I Street  
Sacramento, CA, 95814

RE: CRV Program Convenience Zones

Dear Ms. Wagoner,

We have recently learned that compliance enforcement letters with $100 per day fees were sent to struggling local businesses who have not historically had to redeem cans and bottles in their stores because their convenience zone was previously served by a recycling center(s) which have closed.

RethinkWaste (i.e. South Bayside Waste Management Authority) is a joint powers authority of eleven public agencies (Belmont, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, San Mateo, the County of San Mateo and the West Bay Sanitary District) in San Mateo County. Currently, we serve approximately 428,000 residents and 11,000 businesses and have been a leader in the delivery of innovative waste reduction and recycling programs since our formation in 1982.

The California Redemption Value (CRV) program has been a success since its inception in 1986, but in the past few years, the recycling rate has taken a dip. CalRecycle’s latest report shows the overall recycling rate for calendar year 2020 was 68 percent, down 7 percentage points lower when compared to calendar year 2019 at 75 percent.

While there are many factors that could have caused this dip, one could be that there are fewer redemption locations statewide, including in the RethinkWaste service area. There currently are two CRV redemption locations in our service area, one of which is currently funded through a CalRecycle grant. We appreciate CalRecycle’s investment in making this happen, but with the lack of redemption locations overall, this has had negative consequences for our local small businesses.

Small grocery stores that sell CRV beverages located within a convenience zone without a certified recycling center have been contacted by CalRecycle to either become a redemption location or pay a daily fee of $100. During these unprecedented economic times caused by the COVID-19 pandemic, many small businesses are struggling. The convenience zone issues need to be corrected so these small independently owned stores do not pay the daily $100 fine. These small business are unable to handle and store the amount of bottles and cans that may be collected at their location, and the daily fine is unreasonable for a small independently owned business.

We look forward to your leadership on addressing the current challenges in the recycling markets and are supportive of your thinking on placing the responsibilities on the beverage industry. It’s a lot to expect grocers, especially small ones to be the backbone of the recycling system. We look forward to hearing back from you. Again, we appreciate all that you and your
team do at CalRecycle. These have been unprecedented times and we are all working to be flexible and supportive of the communities we serve.

Thank you for your consideration.

Respectfully,

Alicia Aguire
Chair, RethinkWaste Board of Directors

Joe La Mariana
Executive Director, RethinkWaste
Recommendation
It is recommended that the SBWMA Board of Directors approve Resolution No 2021-27 appointing a 4th Board Member to the Legislative Committee.

Summary
The SBWMA requests the appointment of a 4th Board Member to the Legislative in case there is one member who is unable to attend any of the Committee meetings. The standing meetings are slated to meet on the 4th Mondays of the month, except in July and December where there are no meetings. The current members of the Legislative Committee is as follows:

**Legislative Committee (Standing Committee of Board Members)**
- Fran Dehn, West Bay Sanitary District
- Carole Groom, County of San Mateo
- Adam Rak, San Carlos

Background
At the March 25, 2021 Board meeting, the SBWMA Board approved a list of Committee appointments in a formal process. The Legislative Committee was officially formed at this meeting to be a standing committee of the SBWMA.

Fiscal Impact
There is no fiscal impact associated with appointment of a 4th Board Member to the Legislative Committee.

*Attachments:*
Resolution 2021-27
RESOLUTION NO. 2021-27
RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS RESOLUTION APPOINTING A 4TH BOARD MEMBER TO THE LEGISLATIVE COMMITTEE

WHEREAS, the SBWMA established a formal system to appoint Board Members as members of standing and adhoc SBWMA committees in March 2021 and

WHEREAS, there is a need to add a 4th Board Member to the Legislative Committee in case one member is unable to attend a meeting

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby appoints the following 4th Board Member to the Legislative Committee. ______________.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 22nd day of July, 2021, by the following vote:

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I HEREBY CERTIFY that the foregoing Resolution No. 2021-27 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on July 22, 2021.

ATTEST: Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board
STAFF REPORT

To: SBWMA Board Members
From: Julia Au, Sr. Outreach, Education and Compliance Manager
Date: July 22, 2021 Board of Directors Meeting
Subject: Mid-Session Legislative Session Update with Lobbyist EEC

Recommendation:
This staff report is for discussion purposes only and no formal action is requested of the Board of Directors.

Summary
The purpose of this report is to provide an update to the Board monthly on the current 2021-2022 California Legislative Session and regulatory activities being conducted by our lobbyist, Environmental and Energy Consulting (EEC). EEC’s Principal Reed Addis will be giving a short mid-legislative session update at today’s meeting. Attachment A contains all the priority bills EEC is tracking this session for the Agency.

EEC continues to track and engage with high priority legislation and budget items as we approach the end of the Legislative session. September 10 is the last day bills need to be passed by both houses, and then forwarded onto the Governor’s desk for the final action step in the legislative process. Over ten of the Agency’s priority bills are still making their way through the Legislative process, and the Legislature’s budget package contains $65M for a circular economy package. Staff and EEC have also been internally brainstorming a strategy to reintroduce a battery recycling and collection bill in January of 2022.

Analysis
The SBWMA contracts with EEC to act as the Agency’s legislative and regulatory lobbyist in California. EEC is a registered lobbying firm in the state of California (Lobbying ID # 1371848) and the Board approved a new and expanded contract with EEC on November 19, 2020. EEC will provide these legislative and regulatory services to the SBWMA during the 2021-2022 Legislative Session.

Attachments:
Attachment A – Bill Tracking for 2021-2022 Session
Attachment B – Presentation by EEC - 2021 Legislative Activities
**AB 125**


**Status:** 4/15/2021-From committee: Do pass and re-refer to Com. on NAT. RES. (Ayes 10. Noes 0.) (April 15). Re-referred to Com. on NAT. RES.

**Location:** 4/15/2021-A. NAT. RES.

**Summary:** Would enact the Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of $3,302,000,000 pursuant to the State General Obligation Bond Law, to finance programs related to, among other things, agricultural lands, food and fiber infrastructure, climate resilience, agricultural professionals, including farmers, ranchers, and farmworkers, workforce development and training, air quality, tribes, disadvantaged communities, nutrition, food aid, meat processing facilities, fishing facilities, and fairgrounds.

**Organization**

RethinkWaste

**Position**

Watch

**Priority**

High

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**AB 1500**


**Status:** 5/20/2021-Joint Rule 62(a), file notice suspended. From committee: Do pass and re-refer to Com. on RLS. (Ayes 12. Noes 3.) (May 20). Re-referred to Com. on RLS.

**Location:** 5/20/2021-A. RLS.

**Summary:** Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of $7,080,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

**Organization**

RethinkWaste

**Position**

Watch

**Priority**

High

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**SB 45**


**Status:** 6/1/2021-Ordered to inactive file on request of Senator Portantino.

**Location:** 6/1/2021-S. INACTIVE FILE

**Summary:** Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of $5,595,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

**Organization**

RethinkWaste

**Position**

Watch

**Priority**

High

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**SB 54**


**Status:** 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was INACTIVE FILE on 5/20/2021)(May be acted upon Jan 2022)

**Location:** 6/4/2021-S. 2 YEAR

**Summary:** Would establish the Plastic Pollution Producer Responsibility Act, which would prohibit producers of single-use, disposable packaging or single-use, disposable food service ware products from offering for sale, selling, distributing, or importing in or into the state such packaging or products that are manufactured on or after January 1, 2032, unless they are recyclable or compostable.
**SB 289**  
**Newman D**  
**Recycling: batteries and battery-embedded products.**  
**Status:** 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/17/2021)(May be acted upon Jan 2022)  
**Location:** 5/25/2021-S. 2 YEAR  
**Summary:** Would make the Rechargeable Battery Recycling Act of 2006 and the Cell Phone Recycling Act of 2004 inoperative as of June 30, 2025, and would repeal those acts as of January 1, 2026. The bill would enact the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021, which would require producers, as defined, either individually or through the creation of one or more stewardship organizations, to establish a stewardship program for batteries and battery-embedded products.

**Organization** | **Position** | **Priority**  
--- | --- | ---  
RethinkWaste | Watch | High

**Notes:** Support letter submitted.

**SB 343**  
**Allen D**  
**Environmental advertising: recycling symbol.**  
**Status:** 7/8/2021-Read second time and amended. Re-referred to Com. on APPR.  
**Location:** 7/6/2021-A. APPR.  
**Summary:** Current law declares that it is the public policy of the state that environmental marketing claims, whether explicit or implied, should be substantiated by competent and reliable evidence to prevent deceiving or misleading consumers about the environmental impact of plastic products and that, for consumers to have accurate and useful information about the environmental impact of plastic products, environmental marketing claims should adhere to uniform and recognized standards. This bill would further declare that it is the public policy of the state that claims related to the recyclability of a plastic product be truthful and that consumers deserve accurate and useful information related to how to properly handle the end of life of a plastic product.

**Organization** | **Position** | **Priority**  
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RethinkWaste | Support | High

**Notes:** Sign-on support letter submitted.

**SB 619**  
**Laird D**  
**Organic waste: reduction regulations.**  
**Status:** 6/23/2021-From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 0.) (June 23). Re-referred to Com. on APPR.  
**Location:** 6/23/2021-A. APPR.  
**Summary:** Current law requires the Department of Resources Recycling and Recovery, in consultation with the state board, to adopt regulations to achieve those targets for reducing organic waste in landfills, and authorizes those regulations to require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction, to authorize local jurisdictions to impose penalties on generators for noncompliance, and to include penalties to be imposed by the department for noncompliance. Current law provides that those regulations shall take effect on or after January 1, 2022, except that the imposition of penalties by local jurisdictions pursuant to the regulations shall not take effect until 2 years after the effective date of the regulations. This bill, until January 1, 2023, would require the department to only impose a penalty on a local jurisdiction, and would require a penalty to only accrue, for a violation of the regulations if the local jurisdiction did not make a reasonable effort, as determined by the department, to comply with the regulations.

**Organization** | **Position** | **Priority**  
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RethinkWaste | Support in Concept | High

**Notes:** Position letter submitted.

**Medium**

**AB 332**  
**Committee on Environmental Safety and Toxic Materials**  
**Hazardous waste: treated wood waste: management standards.**  
**Status:** 6/30/2021-In committee: Hearing postponed by committee.
Location: 6/23/2021-S. APPR.

**Summary:** Current law, as part of the hazardous waste control laws, requires the Department of Toxic Substances Control to regulate the management and handling of hazardous waste. Under current law, certain wood waste that is exempt from regulation under the federal Resource Conservation and Recovery Act of 1976, as amended, is exempt from the hazardous waste control laws, if the wood waste is disposed of in a municipal landfill that meets certain requirements imposed pursuant to the Porter-Cologne Water Quality Control Act for the classification of disposal sites, and the landfill meets other specified requirements. A violation of the state’s hazardous waste control laws, including a regulation adopted pursuant to those laws, is a crime. This bill would require a person managing treated wood waste to comply with the hazardous waste control laws or the management standards established in the bill, including standards for the reuse, storage, treatment, transportation, tracking, identification, and disposal of treated wood waste, as provided.

**Organization**  
RethinkWaste  
Support  
Medium  

**Notes:** Sign-on support letter submitted.

**AB 377**  
Rivas, Robert  
D  
**Water quality: impaired waters.**  
**Status:** 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/19/2021)(May be acted upon Jan 2022)  
**Location:** 5/25/2021-A. 2 YEAR

**Summary:** Would require, by January 1, 2023, the State Water Resources Control Board and regional boards to prioritize enforcement of all water quality standard violations that are causing or contributing to an exceedance of a water quality standard in a surface water of the state. The bill would require the state board and regional boards, by January 1, 2025, to evaluate impaired state surface waters and report to the Legislature a plan to bring all water segments into attainment by January 1, 2050. The bill would require the state board and regional boards to update the report with a progress summary to the Legislature every 5 years. The bill would create the Waterway Recovery Account in the Waste Discharge Permit Fund and would make moneys in the Waterway Recovery Account available for the state board to expend, upon appropriation by the Legislature, to bring impaired water segments into attainment in accordance with the plan.

**Organization**  
RethinkWaste  
Support  
Medium

**Notes:** Sign-on support letter submitted.

**AB 478**  
Ting  
D  
**Solid waste: thermoform plastic containers: postconsumer thermoform recycled plastic: commingled rates.**  
**Status:** 7/5/2021-Read second time and amended. Re-referred to Com. on JUD.  
**Location:** 7/1/2021-S. JUD.

**Summary:** Would, on and after January 1, 2024, would require the total thermoform plastic containers, as defined, sold by a producer, as defined, or purchased in a certain quantity, in the state to contain, on average, specified amounts of postconsumer thermoform recycled plastic, as defined, per year pursuant to a tiered plan that would require the total thermoform plastic containers to contain, on average, and depending on the recycling rate, no less than 20% or 30% postconsumer recycled plastic per year on and after June 1, 2030. The bill would exclude a person or company that produces, harvests, and packages an agricultural commodity on the site where the commodity is grown or raised from this requirement.

**Organization**  
RethinkWaste  
Watch  
Medium

**AB 683**  
Grayson  
D  
**Recycling: procurement.**  
**Status:** 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was A. & A.R. on 3/18/2021)(May be acted upon Jan 2022)  
**Location:** 4/30/2021-A. 2 YEAR

**Summary:** Current law relating to public contracting establishes the State Agency Buy Recycled Campaign (SABRC), which requires state agencies to ensure specific percentages of reportable...
purchases from prescribed product categories to be recycled products. Current law requires each state agency, if fitness and quality are equal, to purchase recycled products instead of nonrecycled products whenever recycled products are available at the same or a lesser total cost than nonrecycled products. Current law establishes minimum content requirements for recycled products. Current law requires a state agency to report annually to the Department of Resources Recycling and Recovery its progress in meeting the recycled product purchasing requirements using a SABRC report format. Current law requires the Department of General Services (DGS), if a requirement has not been met, in consultation with the Department of Resources Recycling and Recovery, to review purchasing policies and make recommendations for immediate revisions to ensure that the recycled product purchasing requirements are met. This bill would authorize the Department of Resources Recycling and Recovery, on or after January 1, 2022, to add additional products based on criteria selected by the Department of General Services.

AB 802  
(Bloom D) Microfiber pollution.  
Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 2/25/2021)(May be acted upon Jan 2022)  
Location: 4/30/2021-A. 2 YEAR  
Summary: Would require the Water Resources Control Board to identify the best available control technology for filtering microfibers from an industrial, institutional, or commercial laundry facility on or before an unspecified date, and would require the state board to consult with owners and operators of laundry facilities on the types of filtration systems currently in use and with universities, scientific organizations, and experts on plastic pollution in identifying the best available control technology. The bill would also require, on or before an unspecified date, any entity that operates an industrial, institutional, or commercial laundry facility to adopt the use of the best available control technology to capture microfibers that are shed during washing.

AB 818  
(Bloom D) Solid waste: premoistened nonwoven disposable wipes.  
Status: 7/1/2021-Read second time and amended. Re-referred to Com. on APPR.  
Location: 6/30/2021-S. APPR.  
Summary: Would require, except as provided, certain premoistened nonwoven disposable wipes manufactured on or after July 1, 2022, to be labeled clearly and conspicuously with the phrase "Do Not Flush" and a related symbol, as specified. The bill would prohibit a covered entity, as defined, from making a representation about the flushable attributes, benefits, performance, or efficacy of those premoistened nonwoven disposable wipes, as provided. The bill would establish enforcement provisions, including authorizing a civil penalty not to exceed $2,500 per day, up to a maximum of $100,000 per violation, to be imposed on a covered entity who violates those provisions.

AB 842  
(Garcia, Cristina D) California Circular Economy and Plastic Pollution Reduction Act.  
Status: 4/30/2021-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 3/18/2021)(May be acted upon Jan 2022)  
Location: 4/30/2021-A. 2 YEAR  
Summary: Would enact the California Circular Economy and Plastic Pollution Reduction Act, which would establish a comprehensive regulatory scheme for producers, retailers, and wholesalers of single-use packaging, as defined, and single-use products, as defined, made partially or entirely of plastic, to be administered by the Department of Resources Recycling and Recovery. The bill would require producers, within 6 months of the department’s adoption of regulations to implement the act, to individually, or to collectively form or join a stewardship organization that will, develop, finance, and implement a convenient and cost-effective program to source reduce, recover, and recycle single-use packaging and single-use products discarded in the state, and develop and submit to the department a stewardship plan, annual report, and budget, as prescribed.
### AB 962
**Kamlager (D)** California Beverage Container Recycling and Litter Reduction Act: returnable beverage containers.

**Status:** 7/1/2021-Read second time and amended. Re-referred to Com. on APPR.

**Location:** 6/28/2021-S. APPR.

**Summary:** The California Beverage Container Recycling and Litter Reduction Act requires the Department of Resources Recycling and Recovery to certify processors and requires certified processors to comply with specified requirements for operation, including, among others, taking the actions necessary and approved by the department to cancel containers to render them unfit for redemption. A violation of the act is an infraction. This bill would authorize, for a returnable beverage container, a processor approved by the department to handle returnable beverage containers to satisfy those operation requirements by transferring the returnable beverage container to a washer approved by the department.

### AB 1086
**Aguiar-Curry (D)** Organic waste: implementation strategy: report.

**Status:** 7/8/2021-Withdrawn from committee. Re-referred to Com. on APPR.

**Location:** 7/8/2021-S. APPR.

**Summary:** Would request that the California Council on Science and Technology, in consultation with its academic and research partners and specified state agencies, undertake and, within 12 months of entering into a contract, complete a report that provides an implementation strategy to achieve the state’s organic waste, and related climate change and air quality, mandates, goals, and targets. If the council agrees to undertake and complete the report, the bill would require the council to provide the report to the relevant state agencies after peer review in order for one or more of the relevant state agencies to conduct at least one public meeting and publish the draft implementation strategy on its internet website. The bill would also require the council, if it agrees to undertake and complete the report, to submit the report to the Legislature. The bill would require the implementation strategy to include, among other things, recommendations on policy and funding support for the beneficial reuse of organic waste.

### AB 1276
**Carrillo (D)** Single-use food accessories.

**Status:** 7/8/2021-From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 0.) (July 8). Re-referred to Com. on APPR.

**Location:** 7/8/2021-S. APPR.

**Summary:** Would prohibit a food facility or a third-party food delivery platform, as defined, from providing any single-use food accessories, as defined, to a consumer unless requested by the consumer, as provided. The bill would authorize a food facility to ask a drive-through consumer if the consumer wants a single-use food accessory in specified circumstances. The bill would require a third-party food delivery platform to provide each of its ready-to-eat food vendors with the option to customize the vendor’s menu, on the online food-ordering platform, regarding the availability of single-use food accessories, as provided. The bill would exclude from these requirements correctional institutions, health care facilities, residential care facilities, and public and private school cafeterias.

### AB 1371
**Friedman (D)** Recycling: plastic: packaging and carryout bags.

**Status:** 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was THIRD READING on 5/25/2021)(May be acted upon Jan 2022)

**Location:** 6/4/2021-A. 2 YEAR

Notes: Sign-on support letter submitted.
Summary: Would prohibit an online retailer that sells or offers for sale and ships purchased products in or into the state from using single-use plastic packaging that consists of shipping envelopes, cushioning, or void fill to package or transport the products, on and after January 1, 2023, for large online retailers, as defined, and on and after January 1, 2025, for small online retailers, as defined. The bill would prohibit a manufacturer, retailer, producer, or other distributor that sells or offers for sale and ships purchased products in or into the state from using expanded polystyrene packaging to package or transport the products, except televisions, printers, computer screens, and large appliances until January 1, 2023.

Organization  Position  Priority
RethinkWaste  Watch  Medium

AB 1454  (Bloom D)  The California Beverage Container and Litter Reduction Act.
Status: 7/5/2021-In committee: Hearing postponed by committee.
Location: 6/16/2021-S. E.Q.

Summary: The California Beverage Container Recycling and Litter Reduction Act requires the Department of Resources Recycling and Recovery to annually designate convenience zones on a statewide basis and requires that at least one certified recycling center or location that meets certain requirements be located within every convenience zone, with exemptions. The act defines convenience zone as either the area within a 1/2 mile radius of a supermarket or the area designated by the department in a rural region. This bill would allow the department to designate a regional convenience zone serving up to 5 adjacent unserved supermarket-based zones based on specified factors. The bill would require the department to certify bag drop redemption programs, as defined, and dealers under certain conditions and would require those certified entities to be eligible for handling fees and processing payments, as provided, thereby making an appropriation.

Organization  Position  Priority
RethinkWaste  Watch  Medium

Status: 7/5/2021-Adopted and to Assembly. (Ayes 34. Noes 0.) In Assembly. Ordered to Engrossing and Enrolling.
Location: 7/5/2021-A. ENROLLMENT

Summary: This measure would declare California to be in favor of the United States’ ratification of the Basel Convention at the earliest opportunity and would request the Biden Administration to accomplish this ratification as a matter of urgency.

Organization  Position  Priority
RethinkWaste  Support  Medium

Notes: Sign-on support letter submitted.

SB 38  (Wieckowski D)  Beverage containers.
Status: 6/30/2021-From committee with author’s amendments. Read second time and amended. Re-referred to Com. on NAT. RES.
Location: 6/10/2021-A. NAT. RES.

Summary: Would require distributors of beverage containers in the state to form a beverage container stewardship organization. The organization would be required to develop and submit to the Department of Resources Recycling and Recovery a plan, annual report, and budget for the recovery and recycling of empty beverage containers in the state similar to that described in the Used Mattress Recovery and Recycling Act. The bill would require the organization to establish a stewardship fee, to be paid by distributor members of the organization, to assist in covering the costs of implementing the beverage container stewardship program. The bill would require the organization to reimburse the department for the department’s costs of enforcing the program. The bill would require the department to deposit all moneys submitted for reimbursement into the Beverage Container Stewardship Fund, which the bill would create in the State Treasury.

Organization  Position  Priority
RethinkWaste  Watch  Medium

SB 244  (Archuleta D)  Lithium-ion batteries: illegal disposal: fire prevention.
**Status:** 7/7/2021-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 11. Noes 0.) (July 7). Re-referred to Com. on APPR.

**Location:** 7/7/2021-A. APPR.

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**Summary:** Would prohibit a person from knowingly disposing of a lithium-ion battery in a container or receptacle that is intended for the collection of solid waste or recyclable materials, unless the container or receptacle is designated for the collection of batteries for recycling, as provided.

**Organization** Position | Priority
--- | ---
RethinkWaste | Support | Medium

**Notes:** Sign-on support letter submitted.

### Strategic

**AB 661** (Bennett D) Recycling: materials.

**Status:** 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/19/2021)(May be acted upon Jan 2022)

**Location:** 5/25/2021-A. 2 YEAR

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**Summary:** Current law establishes minimum content requirements for recycled products. Current law requires a state agency to report annually to the Department of Resources Recycling and Recovery its progress in meeting the recycled product purchasing requirements using a SABRC report format. Existing law requires the Department of General Services (DGS), if a requirement has not been met, in consultation with the Department of Resources Recycling and Recovery, to review purchasing policies and make recommendations for immediate revisions to ensure that the recycled product purchasing requirements are met. This bill would require a state agency, if fitness and quality are equal, to purchase recycled products instead of nonrecycled products, without regard to cost. The bill would substantially revise product categories.

**Organization** Position | Priority
--- | ---
RethinkWaste | Support | Strategic

**Notes:** Sign-on support letter submitted.


**Status:** 6/30/2021-From committee: Set, first hearing. Hearing canceled at the request of author.

**Location:** 6/28/2021-S. APPR.

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**Calendar:** 7/15/2021 Upon adjournment of Session - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, PORTANTINO, Chair

**Summary:** The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, requires each city, county, and joint powers authority formed under the act, referred to as a regional agency, to develop a source reduction and recycling element of an integrated waste management plan. The act requires the source reduction and recycling element to divert from disposal 50% of all solid waste subject to the element through source reduction, recycling, and composting activities, with specified exceptions. This bill would make the export out of the country of a mixture of plastic wastes “disposal” for purposes of the act, unless the mixture includes only certain plastics destined for separate recycling and satisfies other specified requirements, in which case that export would constitute diversion through recycling.

**Organization** Position | Priority
--- | ---
RethinkWaste | Support | Strategic

**Notes:** Sign-on support letter submitted.

**AB 1201** (Ting D) Solid waste: plastic products: labeling: compostability and biodegradability.

**Status:** 7/7/2021-From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 0.) (July 7). Re-referred to Com. on APPR.

**Location:** 7/7/2021-S. APPR.

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**Summary:** Would prohibit a person from offering for sale a plastic product that is labeled as “compostable” or “home compostable” unless, at the time of sale or offering for sale, the plastic product meets that specified certification or has that specified certification and would additionally...
prohibit a person from offering for sale a plastic product that is labeled as "biodegradable," "degradable," or "decomposable," unless the plastic product meets one of those specified standards relating to environmental marketing claims. The bill would additionally authorize a person to offer for sale commercial agricultural mulch film labeled with the term "soil biodegradable" if the department adopts that specification and the film has that certification.

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<td>Support</td>
<td>Strategic</td>
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Notes: Sign-on support letter submitted.

Total Measures: 25
Total Tracking Forms: 25
Zero Waste Now

Created a coalition of 12 JPAs covering 95 local jurisdictions all committed to a zero waste future in California.
SB 1383 Funding

Assembled a coalition of local governments, waste haulers, environmental NGOs, and community groups to support funding for organic waste recycling needs.
Battery Recycling

PROGRESS
- Passed out of Senate EQ committee, despite getting held there in 2019
- Technical support from CalRecycle

SUPPORT/OPPOSITION
- 30+ local gov, waste haulers, and enviro NGOs in support
- Retailers and battery/product manufacturers posed intense opposition

NEXT STEPS
- Pass local reach codes
- Local gov outreach & mapping fires
- Educate Legislators
- Build new allies
Legislation

Tracked and supported a number of key bills in the California Legislature.

- SB 343 (Allen): Clarifies use of chasing arrow symbol
- SB 619 (Laird): Delays penalties for SB 1383
- AB 1201 (Ting): Sets compostable packaging standards
- AB 1276 (Carillo): Limits takeoutware to upon request
SHOREWAY OPERATIONS AND CONTRACT MANAGEMENT
STAFF REPORT

To: SBWMA Board Members
From: Hilary Gans, Senior Operations and Engineering Manager
Date: July 22, 2021 Board of Directors Meeting
Subject: Update on Organics-to-Energy (O2E) Pilot Project

Recommendation
This item is for discussion purposes only and no action is recommended.

Summary
The goal of the Organics-to-Energy Pilot project is to establish the viability of using an alternative processing methodology for the SBWMA's food waste and for meeting the SB1383 regulatory goals. Three years ago, agency staff partnered with Anaergia to develop an innovative new mechanized materials processing system at Shoreway to process commercial source separated organics (SSO) stream for anaerobic digestion and green energy production rather than composting - this materials is commonly referred to as Food Waste. Specially the Pilot sought to evaluate the following:

1. Validate the technical and financial feasibility of processing food waste and anaerobically digesting slurry at Waste Water Treatment Processing facilities (WWTPs) as a green energy source to power their 24/7 operations. Provide this alternative diversion processing at, or near, cost neutrality when compared to current and anticipated future Food Waste composting cost options.
2. Determine if the O2E project can be expanded to provide organic diversion from MSW to meet SB1383.

After nearly two month of operations, preliminary results indicate that the O2E Pilot is fulfilling the technical expectation of manufacturing an energy-rich slurry for WWTP use and that this approach will replace composting for SSO materials. A major cost component—WWTP’s cost per ton—is currently unknown. A this early juncture, Staff has identified $66 per ton for WWTP processing and transportation as the cost neutral target that we are striving for (See Appendix A; Table 2). This report is intended to update the Board on the status of the project and make preliminary conclusions regarding the goals above.

Goal #1 – Is the O2E Project Technically and Financially Feasible?
1. O2E system is technically successful and reliably producing a clean food waste slurry that is generating biogas and electricity at partnering WWTPs.
   a. Slurry quality is currently being analyzed by WWTPs but appears to be suitable feed stock.
   b. Gas and electricity generation from food waste slurry is being measured by WWTPs.
2. The O2E is financially competitive with rates being charged by the SBWMAs compost contractors for this material classification. (See Appendix A for a summary proforma of the current project and sensitivity analysis of different WWTP tip fees and production rates).
a. The cost of operating the O2E Pilot project is more expensive than originally forecast due to the need to “floor sort” the SSO prior to feeding into the Anaergia System. This process slows the operation and adds an operator and excavator (approximately $300K per year or $12 per ton).

b. The O2E operations has been operating a short time but preliminary cost information indicate that the system is currently processed SSO loads at a cost $84 per ton as opposed to $122 per ton for Composting (see Appendix A, Table 1).

c. The productivity of the O2E system is still being assessed and improved – at a target production rate of 4-loads per day of slurry, the processing cost is projected to drop from $84 to $73 per ton. (see Appendix A, Table 1&2).

d. For the first 6-months of the pilot project, WWTP partners are not charging the SBWMA to tip food waste slurry, but the expectation is that they will implement a tip fee in the $40-125 per ton range.

e. Cost information will be reported to the Board in September/October with the expectation of including the O2E operations into the 2022 budget.

**Goal #2 – Does the O2E Provide a Pathway for SB1383 Compliance?**

To determine whether the system can satisfy the organics diversion requirement of SB1383, Staff has worked with SBR to conducted waste sorts (Black Can material) at the Shoreway MRF and has processed the food-rich fraction of the MSW through the Anaergia system. In the test, the MRF sorting equipment was used to simulate a full O2E waste sorting system and the different fraction of the waste stream were separated and measured according to the definitions in SB1383. Test results indicate that:

1. The MRF system is highly effective at sorting MSW on a “test” basis and in separating the food-rich fraction from the rest of the waste stream. Waste composition tests indicate that nearly 30% of the “organic” waste in the MSW is food.

2. The MRF system is highly effective at separating paper (and film plastic), which is also considered “Organic” in the SB1383 regulations from the rest of the waste. Waste composition tests indicate that nearly 60% of the “organic” fraction of MSW is composed of mixture of paper and film plastics.

3. The Anaergia system is effective at capturing the food waste fraction of the solid waste stream as required by SB1383.

4. The Anaergia system is not effective at capturing the paper fraction of the solid waste stream that is required by SB1383.

Since food waste represents only 30% of the “organics” targeted for recovery by CalRecycle, and the Anaergia system is ineffective at recovering the paper fraction of the “organics” (60% is composed of paper), it is clear from the preliminary testing that the Anaergia system, by itself, is not capable of meeting the requirements of SB1383. While staff intends to conduct more testing and explore alternative approaches to handling the paper fraction of MSW, a “Collection-Based Approach” to diverting commercial SSO is necessary to meet SB1383’s diversion compliance requirements.
Analysis
As with the MRF operation, the diversion of organic waste from landfills centers around a processing system that creates a clean commodity which can be transported to end markets for recycling into new products. In the case of the O2E project, the processing system provided by Anaergia is used to purify the food waste into a liquid organic slurry that can be shipped to WWTP market outlets and anaerobically digested to create green energy.

To be successful the O2E project relies on:

1. Commercial generator to separate organics from waste and for Recology to effectively educate the participating customers to enable the collection of clean loads of Organics, as defined by the O2E Pilot.
2. The Anaergia processing system to clean the food waste into a marketable product.
3. SBR to cost effectively and reliably operate the O2E system and truck the slurry to WWTPs.
4. WWTPs to inexpensively process the slurry through their existing infrastructure and make biogas and green power.
5. Regulatory agencies understanding and approve the process of anaerobically digesting food waste.

1. Commercial Source Separated Organic Feedstock

The quantity of food waste collected from commercial generators in the SBWMA service area declined 70% a year ago after Shelter-in-place was announced. Food waste quantities are now starting to recover and for this reason, the O2E project was postponed for one year and was recently activated in April 2021.

To build a ‘critical mass’ of food waste to kick start this Pilot, the SBWMA began importing clean food waste from Monterey Regional Waste Management Authority (see Figure 1.) in April to supplement the SSO collected by Recology from the SBWMA service area (SBWMA SSO did not represent sufficient quantities to activate the Anaergia processing equipment). The combined streams equal approximately ~60 tons per day of food waste which, after processing though the O2E system, generates ~3 out bound loads of liquid organic slurry for shipment to WWTPs.

![Figure 1. Monterey Regional Commercial Food Waste](image-url)
The Anaergia system was developed to process a relatively clean SSO feed stock. The SSO loads from Recology contain roughly 50% food waste with the balance being a mixture of green waste, wood waste, paper, and trash (Figure 2). WWTPs are very intolerant of contamination and the processing of the SSO mixture collected by Recology has proven to be a challenge for the equipment and SBR's operating team. Through a combination of 'floor sorting' using additional labor and equipment and using a shredder at the system infeed, the food waste can be concentrated into a feed stock suitable for the Anergia system. The SBWMA is working with Recology to improve the organics collection routes so that the feed stock contains food-rich loads while minimizing materials that the Pilot has identified as undesirable. With more concentrated food waste loads, less floor sorting will be required, and the system will process materials at a higher throughput.

Figure 2. Recology Collected SSO

2. Anaergia processing system

During the initial six weeks of pilot operations, the Anaergia system has effectively cleaned the food waste and produced a high-quality liquid organic slurry that meets the expectations of the WWTP partners. (The system was installed a year ago but project startup was paused due to COVID). There was a significant amount of work performed by Anaergia to restart and "tune" the system before it could run without interruption or jamming. Currently the system is operating below the throughput expectations which is a direct result of the high-levels of non-food waste materials in the current SSO that is disrupting system infeed. Floor-sorting has help resolve much of the plugging problems, but this additional level of sorting has added labor expense.

In August, the SBWMA will be conducting the final system performance test on the Anaergia equipment and these results will be shared with the SBWMA Board. A final payment will be made to Anaergia upon completion of the test.

3. SBR's Operations of the O2E System

The start-up of the O2E Pilot has required SBR to train new employees to operate the Anaergia system and to transport the outbound slurry to local waste water treatment plants in a tanker truck. Training was initiated in April 2021 and "regular operations" were initiated in May. There were many materials handling and system training challenges causing a slow system start-up (staff turn-over, equipment interruptions, coordination with WWTP's) but there has been steady improvement in the efficiency over the past month. (For example, in April
the operation shipped an average of one-load of slurry per day, in June this increased to an average of 3-
loads per day.) SBR has worked hard to integrate the new O2E system into their Shoreway operations and
staff feels that operational efficiency will continue to improve and that the goal of 4-loads per day of slurry will
be met this Fall. SBR management has done a great job in working with the new system and the current
employees are dedicated to persevering through the many obstacles during this start up period.

4. WWTPs Experience with New Food Waste Slurry

While WWTPs are interested in expanding their “green” electricity generation from liquid feedstocks, these
facilities are highly sensitive to contamination and are very selective about materials that they receive for
processing. A big success of the O2E Pilot project has been the consistent production of a liquid organic slurry
that meets the quality standards of WWTPs - Anaergia developed the OREX system with this goal in mind and the
system installed at Shoreway was the first of its kind in the country to process high-volumes of SSO into liquid
organic slurry. Over 50 loads of slurry have now been shipped to partnering WWTPs (Silicon Valley Clean Water
and Central Marin Sanitary Agency). Preliminary lab results show that there is minimal physical contamination
(grit or plastics) and that the food waste slurry has proven to be an energy-rich feedstock that is easily digested in
the anaerobic digestion system operated at these plants. Data on the energy production from the slurry is being
collected. In summary, early WWTP feedback has been encouraging which indicates that the core “Proof of
Concept” of our Pilot’s technology appears to be sound.

5. Regulatory Agency Approvals

Processing food waste through anaerobic digestion into green energy is one of the few CARBON NEGATIVE
energy solutions in the world. Because energy created from food waste simultaneously displaces fossil fuels and
mitigated methane emissions from landfills, this pathway for energy generation is an ideal solution for combating
climate change. However, on a local permitting level, regulators are still struggling to catch up in the integration of
this new method of waste handling into their framework and the solid waste and air permitting pathways have
some regulatory uncertainty. For example, CalRecycle is not sure how this process, when applied to the black-
can solid waste stream, meets SB1383 goals, and the Air Board is still treating emissions from food waste as a
NEW source of GHG rather than biogenic emissions that avoids landfill methane production. SBWMA and WWTP
staff are working with regulatory bodies so that the full benefits of waste and GHG reduction are recognized and
supported before the project is expanded. Staff strongly believes that this new material processing approach
offers important environmental benefits for our community that must be acknowledged in the form of supportive
and adaptive new regulations. Simply put, this technology appears to be ahead of the regs.

Pilot Project Milestone Dates:
- **May 2018**: OREX transferred from Recology SF to Shoreway
- **February 2019**: Agreement with SBR for 6-month operations of the O2E Pilot
- **July 2019**: Building Department design approval
- **September 2019**: electrical feed installation from existing transformer
- **November 2019**: Shredder and OREX installation complete
- **November-January 2020**: Polishing System Installation
- **February 2020**: System Commissioning
- **February 14, 2020**: Pilot equipment installation completed by Anaergia
- **March 2020**: System training was halted and O2E project was suspended due to Shelter-in-Place
- **April 2021**: Restart of Project liquid organic slurry shipped to SVCW and CMSA
- **April and May 2021**: Employee training and system operations
- **June 25**, Board approves additional project funding after project was suspended for 3 weeks

**Fiscal Impact**
This is a discussion item only and there are no fiscal impact from this report.

**Attachments:**

**Attachment A** - Proforma Summary of the Current O2E Project and Sensitivity Analysis at differing WWTP Tip Fees and Load Shipped Production
### O2E PILOT FINANCIAL SUMMARY

**SSO Tons Infeed**
- 18,792

**Tons Slurry Shipped**
- 14,094 (75%)
- 6,698 (25%)

**Tons Residue to Landfill**
- 4,698

**CAPEX**
- **OREX 500 Pilot CAPEX** $125,000.00
- **Contingency** $0

**Subtotal** $(125,000.00) (6.65) $/Ton

**OPEX**
- **Transport & Disposal**
  - Transport residuals to landfill $16.13 $75,779
  - Tip fee residuals at landfill $336,001
  - Transport of slurry to WWTP $440,598
  - Tip fee for slurry at WWTP $-

**Subtotal** $(877,637) (34.53) $/Ton

**Processing Operations**
- **Direct Labor** $531,851
- **Fuel & Power** $174,834
- **Other O&M Expense** $110,864

**Subtotal** $(817,549) (32.63) $/Ton

**Total Expenses O2E** $(1,820,186) (72.64) $/Ton

**AVOIED COST OF TRANSPORTATION & COMPOSTING**
- Avoided SSO transportation cost $37.16 $698,311
- Avoided SSO tip fee cost $85.00 $1,597,320

**Subtotal** $2,295,631 (122.16) $/Ton

**NET BENEFIT/(COST) OF PILOT PROJECT** $(710,894) (37.83) $/Ton

---

**SSO Tons Infeed**
- 25,056

**Tons Slurry Shipped**
- 18,792 (75%)
- 6,264 (25%)

**Tons Residue to Landfill**
- 6,264

**CAPEX**
- **OREX 500 Pilot CAPEX** $125,000.00
- **Contingency** $0

**Subtotal** $(125,000) (4.99) $/Ton

**OPEX**
- **Transport & Disposal**
  - Transport residuals to landfill $16.13 $101,038
  - Tip fee residuals at landfill $336,001
  - Transport of slurry to WWTP $440,598
  - Tip fee for slurry at WWTP $66.00 $1,240,272

**Subtotal** $(3,060,841) (122.16) $/Ton

**Processing Operations**
- **Direct Labor** $531,851
- **Fuel & Power** $174,834
- **Other O&M Expense** $110,864

**Subtotal** $(817,549) (32.63) $/Ton

**Total Expenses O2E** $(3,878,390) (155.19) $/Ton

**AVOIED COST OF TRANSPORTATION & COMPOSTING**
- Avoided SSO transportation cost $37.16 $931,081
- Avoided SSO tip fee cost $85.00 $2,129,760

**Subtotal** $3,060,841 (122.16) $/Ton

**NET BENEFIT/(COST) OF PILOT PROJECT** $(383) (0.02) $/Ton

---

**SSO Tons Infeed**
- 25,056

**Tons Slurry Shipped**
- 18,792 (75%)
- 6,264 (25%)

**Tons Residue to Landfill**
- 6,264

**CAPEX**
- **OREX 500 Pilot CAPEX** $125,000.00
- **Contingency** $0

**Subtotal** $(125,000) (4.99) $/Ton

**OPEX**
- **Transport & Disposal**
  - Transport residuals to landfill $16.13 $101,038
  - Tip fee residuals at landfill $336,001
  - Transport of slurry to WWTP $440,598
  - Tip fee for slurry at WWTP $66.00 $1,240,272

**Subtotal** $(3,060,841) (122.16) $/Ton

**Processing Operations**
- **Direct Labor** $531,851
- **Fuel & Power** $174,834
- **Other O&M Expense** $110,864

**Subtotal** $(817,549) (32.63) $/Ton

**Total Expenses O2E** $(3,878,390) (155.19) $/Ton

**AVOIED COST OF TRANSPORTATION & COMPOSTING**
- Avoided SSO transportation cost $37.16 $931,081
- Avoided SSO tip fee cost $85.00 $2,129,760

**Subtotal** $3,060,841 (122.16) $/Ton

**NET BENEFIT/(COST) OF PILOT PROJECT** $(383) (0.02) $/Ton

---

Attachment A. Proforma Summary of the Current O2E Project and Sensitivity Analysis at differing WWTP Tip Fees and Load Shipped Production
INFORMATIONAL ITEMS ONLY
STAFF REPORT

To: SBWMA Board Members
From: Tj Carter, Program Manager II, Recycling and Compliance
Date: July 22, 2021 Board of Directors Meeting
Subject: SB 1383 Franchise Agreement Amendment Two Update

Recommendation:
This is an informational report, and no action is necessary.

Summary
The purpose of this report is to provide the Board and TAC with an update on the negotiations of Franchise Agreement Amendment Two with Recology for Scope of Service Modifications to integrate franchise-related SB 1383 compliance requirements. The SBWMA has engaged HF&H Consultants, LLC (HF&H) to support the planning, drafting, negotiating, and review of the amendment and cost proposal with Recology.

Analysis
Under SB 1383, jurisdictions must provide organics collection and processing programs that meet specific requirements prescribed by SB 1383. The SBWMA will utilize a standard SB 1383 compliance approach that includes a 3-container system for single-family, multi-family dwelling, and commercial customers. The SBWMA is in active negotiations with Recology to expand services to include:

1. **Expanded Collection Services for Multi-Family Dwelling and Commercial Customers**
   Expand organic materials and recyclable materials collection service to all MFD/commercial customers.

2. **Contamination Monitoring and Annual Hauler Route Reviews**
   Perform contamination monitoring for all routes annually to comply with SB 1383 contamination minimization requirements.

3. **Public Education and Outreach**
   Launch education and outreach efforts targeted towards MFD/commercial customers that do not have recyclable materials and/or organic materials collection services and integrate educational information on SB 1383 organics recycling requirements into existing education and outreach materials for all generators.

4. **Waiver Program**
   Engage Recology in the process of reviewing MFD/commercial generator waiver applications (for waivers from obligation to subscribe to recycling and/or organic service for de minimis volumes of
materials or physical space limitations) for reasonableness and for conducting inspections for waiver reverifications every five years.

5. **Container Specifications and Drop Box Colors**
   Provide drop boxes that are color compliant with SB 1383 requirements by January 1, 2036.

6. **Record Keeping and Reporting**
   Integrate SB 1383 reporting requirements into Recology’s reporting for contamination monitoring, waiver program, public education and outreach, and SFD, MFD, and commercial generator compliance monitoring.

Attachment A: Timeline Updates reflects the current timeline and milestones for development, approval, and implementation of the Franchise Agreement Amendment 2.

**Background**
In September 2016, SB 1383 (Lara, Chapter 395, Statutes of 2016) established statewide methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants in various sectors of California’s economy. It includes statewide goals to reduce the disposal of organic waste and recover edible food for human consumption. To accomplish these statewide goals, SB 1383 regulations, which were approved on November 3rd 2020, include prescriptive requirements for jurisdictions related to recycling and organics collection, inspection, and enforcement policies and programs and edible food recovery. The SBWMA and its Member Agencies need to comply with nearly all SB 1383 requirements by January 1, 2022 with the significant exception that enforcement actions do not need to commence until January 1, 2024.

More information regarding SB 1383 can be found online at [www.calrecycle.ca.gov/organics/slcp/](http://www.calrecycle.ca.gov/organics/slcp/).

**Fiscal Impact**
Cost increases are anticipated for Recology’s expanded scope of services; however, cost estimates were not available at the time of this Staff Report. The SBWMA anticipates receiving a cost proposal from Recology for these service modifications by July 16, 2021.

**Attachments:**
- Attachment A: Timeline Update
Attachment A
Timeline Update

Jun 15: **Recology Submits 2022 Comp App to SBWMA (EOD)**
- In addition to normal fixed cost contract services (+ normal CPI adjustment request), including cost estimate for SB 1383 expanded services.

July 9: **Recology Provides Draft Amendment #2 Redline Edits to SBWMA (EOD)**
- Recology provides SBWMA with redline edits to the Amendment #2 Scope of Services

July 16: **Recology Provides Cost Proposal to SBWMA (EOD)**
- Recology staff provides SBWMA with cost estimate for SB 1383 expanded services.

July 22: **SBWMA Board Meeting (2-4pm)**
- Staff reports to Board on the status of the Amendment #2 process.

Aug: **Adjustments to Cost Proposal between SBWMA and Recology**
- SBWMA and Recology staff work together to make adjustments to the Cost Proposal.

Sep 2: **Recology Provides Final Edits to SBWMA (EOD)**
- Recology provides final edits to cost estimates and Amendment #2 Scope of Services to SBWMA in preparation for SBWMA Study Session Meeting.

Sep 9: **SBWMA Study Session Meeting—Comp App Review (2-4pm)**
- Staff provides an in-depth review of Recology’s/SBR’s 2022 Comp Apps.
- Staff provides an in-depth review of proposed Recology costs for SB 1383 services.

Sep 23: **SBWMA Board Meeting (2-4pm)**
- Board considers/approves presumed 2022 Comp App adoption by Board, including SB 1383 services.
- Board considers/approves the Model Amendment #2.

Oct-Dec: **Member Agencies Consider/Approve Amendment #2**
- Member Agencies consider/approve Amendment #2; eight votes needed at the member agency level to adopt Amendment #2.

Jan 1, 2022: **SB 1383 Compliance Period Begin; Recology Commences Implementation of Expanded Service**
To: SBWMA Board Members  
From: John Mangini, Senior Finance Manager  
Date: July 22, 2021, Board of Directors Meeting  
Subject: 2021 Finance and Rate Setting Calendar

Recommendation
This is an informational report, and no action is necessary.

Summary
The purpose of this staff report is to keep the Board and Member Agency staff informed on the schedule of important financial and rate setting events in 2021. This staff report is updated as necessary and included in the Board packet each month.

Schedule of Finance, Contractor Compensation and Rate Adjustment Activities in 2021:

January 2021
- Approval FY19/20 audited Financial Statements. (Complete)

March 2021
- Recology submission of the unaudited 2020 Revenue Reconciliation Report (Due: March 31) (Complete)

June 2021
- Mid-year review of the adopted FY2021 SBWMA Operating Budget (approved at 11/19/20 Board Meeting). (Complete)
- Recology’s 2022 Compensation Application submission to the SBWMA/Member Agencies (Due: June 15) (Complete)
- SBWMA/ Member Agency submit comments to Recology on its 2020 Compensation Application (Due: June 29) (Complete)
- SBWMA issues Member Agency letters requesting formal confirmation on their estimated 2022 Member Agency fees (e.g., franchise fees) to be included in their 2022 solid waste rates. (Complete)
- Review of Recology’s Revenue Reconciliation Report from the independent Financial Systems audit report (Complete)

July 2021
- SBR’s 2022 Compensation Application submission to the SBWMA (Due: July 5) (Complete)
- Recology revised 2022 Compensation Application submission to SBWMA/Member Agencies (Due: July 16)
- Recology issues proposed 2022 SB1383 related Compensation Adjustment Application to SBWMA for review (Due: July 16)
- SBWMA issues the following reports to the Board and Member Agency staff for review and comment:
  - 1. Estimated 2021 and 2022 residential and commercial base revenue
  - 3. Summary of 2022 Member Agency fees to be used in the 2022 cost projections based on Member
Agency feedback.

**August 2021**
- SBWMA issues the Draft Report Reviewing Recology’s 2022 Compensation Application, recommended total Revenue Requirement, and Rate Adjustment (Due: August 10)
- SBWMA issues the Draft Report Reviewing SBR’s 2022 Compensation Application (Due: August 17)
- Comments due from Member Agencies on draft Reports Reviewing Recology’s & SBR’s 2022 Compensation Application (Due: August 27)

**September 2021**
- SBWMA TAC Meeting reviewing Pre-Final Report Reviewing Recology’s 2022 Compensation Application (September 9).
- SBWMA issues Amended Final Report Reviewing Recology’s 2022 Compensation Application including the recommended total Collection Rate Adjustment for 2022. (September BOD Packet)
- Approval of SBR 2022 Compensation Application (September 23 BOD Meeting)
- Approval of Recology 2022 Compensation Application and total recommended Revenue Requirement September 23 BOD Meeting)

**October 2021**
- Finance Committee review of SBWMA’s DRAFT FY2022 Budget (October 12 Meeting)
- SBWMA Board Study Session: Reviewing Preliminary (Draft) 2022 Fiscal Year Budget (October 21)

**September – December 2021**
- Member Agencies issue Prop. 218 notices and approve their final 2022 solid waste rates

**November 2021**
- Approval of the SBWMA’s Final Fiscal Year 2022 Budget at the November 18th Board meeting
STAFF REPORT

To: SBWMA Board Members
From: John Mangini, Senior Finance Manager
Date: July 22, 2021 Board of Directors Meeting
Subject: Check Register Detail for June 2021

Recommendation
This is an informational item only and no action is required. This report was requested by the Board members.

Summary
The purpose of this report is to provide transparency to the Board and the public on the actual spending by the SBWMA. All payments issued in June 2021 are listed on the attached (Attachment A) report for review.

Analysis
As of July 1, 2019, the SBWMA entered into a contract with the City of Redwood City for accounting services including the issuing of all payments and deposit of all receipts. In accordance with the SBWMA and the City of Redwood City’s policies, checks are normally issued every two weeks. All SBWMA invoices are approved for payment by the program manager and then by the Executive Director or Finance Manager. The total transactions for June 2021 summed to $7,781,656.55 as detailed in Attachment A.

If you have any questions on this, please contact Cyndi Urman or John Mangini.

Attachments:
Attachment A – June 2021 Check Register Detail Report
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TOTAL - $7,781,656.55
STAFF UPDATE

2021 SBWMA Meeting Planning Guide

- Board Meetings
- Finance Committee Meetings
- TAC Meetings
- Legislative Committee Meetings
- Pub Ed Committee Meetings (tbd)
- Zero-Waste Committee Meetings
- Agency-Sponsored Community Events

AUGUST:

23: Legislative Committee Meeting

SEPTEMBER:

9: Board/TAC—Joint Study Session
- Review of the SBWMA’s report reviewing the annual Contractor’s Compensation Applications for 2022

23: Board Meeting
- Resolution Approving the SBWMA’s Final Report Reviewing and 2022 Recology San Mateo County Compensation Application
- Resolution Approving the SBWMA’s Final Report Reviewing and 2022 South Bay Recycling Compensation Application
- Resolution Approving a revised purchasing policy to align with the County of San Mateo’s Purchasing Policy as per 3rd Amended and Restated JPA Agreement
- Resolution Approving CY2021 Mid-Year Calendar Budget Adjustments
- Site Masterplan Review, Airport project update and Resolution Approving Contract for Shoreway Master Site Plan Development
- Resolution Approving adjustment to the SBR Compensation for the VRS employee CPI adjustment to $18/hr.
- Resolution Approving contract with Anergia for Service and Maintenance of Organics-to-Energy Equipment
- Resolution Approving a Contract with Everest Systems for a 5-year Service and Support of Organics to Energy Equipment

27: Legislative Committee Meeting

OCTOBER:

TBD: Rethink Recycling Day(s) at Shoreway

12: Finance Committee Meeting
- Review of Draft FY2022 budget and Capital Improvement Plan

21: Board Meeting Third Thursday (Study Session format)
• Review of DRAFT FY2022 Budget
• Discussion on Operating Expenses
• Capital Improvement Plan Discussion for 2022
  o Organics-to-Energy-next phase recommendations
  o MRF Phase II
  o Facility/site needs assessment project
  o Airport Project update

25: Legislative Committee Meeting

NOVEMBER:
18: Board Meeting: Third Thursday due to Thanksgiving Holiday
• Resolution Approving 2022 Calendar Year Budget
• Resolution Approving Updated Employee Handbook
• 2021 Legislative Session Recap
• 2021 Public Education and Environmental Education Recap
• Update on Recycling – What is/is not recycled and why

22: Legislative Committee Meeting

DECEMBER:
DARK–No Meeting