



MEMORANDUM TO: Board of Directors
FROM: Naomi Lue, Zero Waste Supervisor
SUBJECT: ACI Franchise Agreement
(May 1, 2019) Contract Amendment
No. 2 effective July 1, 2021
DATE: May 13, 2021

Contract Amendment No. 2

Attached please see updated changes to the Collection and Processing Services (Franchise) Agreement, executed between Castro Valley Sanitary District and Alameda County Industries (ACI) for July 1, 2021. Please note that affected Article Numbers of the Collection Service Agreement below are not exhaustive but used for general reference.

1. Article 4.8, Billing
 - a. Page 16: New description regarding timeframe for reimbursement/credit for Customer overcharge, and timeframe for Contractor billing for services provided if Contractor fails to invoice Customer.

2. Article 5.6, Container Requirements
 - a. Page 25: Updates description for when a Cart Exchange/Replacement fee may be charged by Contractor.

Cc: Mr. Anthony Varni, Attorney at Law
ACI – K. Kenney, C. Valbusa, D. Halleck Ventura
CVSan – R. Williams, J. Figueiredo, E. Nava, C. Caceres, P. Solanki, file
HF&H Consultants

541 provide the above-described special event services at the request of the event organizer and may
542 negotiate the charges for such services with the event organizer based on the specific needs of
543 the event.

544 **4.7 PUBLIC EDUCATION AND OUTREACH**

545 Public education and outreach activities related to this Agreement will be managed by the
546 DISTRICT, with assistance from CONTRACTOR. As further described in Article 7 and Exhibit C,
547 CONTRACTOR shall prepare and distribute public education and outreach materials upon
548 DISTRICT request, and contribute funds to the DISTRICT to support the DISTRICT's public
549 education and outreach efforts.

550 **A. Program Objectives.** DISTRICT's public education and outreach strategy shall focus on
551 improving Customer understanding of the benefits of and opportunities for source
552 reduction, reuse, Recycling, and Composting. In general, the public education and
553 outreach should: (i) inform Customers about the services that are provided under this
554 Agreement with specific focus on describing the methods and benefits of source reduction,
555 reuse, Recycling, and Composting; (ii) instruct Customers on the proper method for
556 placing materials in Containers for Collection and setting Containers out for Collection with
557 specific focus on minimizing contamination of Recyclable Materials and Organic Materials;
558 and, (iii) clearly define Excluded Waste and educate Customers about the hazards of such
559 materials and their opportunities for proper handling.

560 **B. Coordination with DISTRICT and StopWaste Educational Efforts.** CONTRACTOR
561 acknowledges that they are part of a multi-party effort to operate and educate the public
562 about the regional integrated waste management system. CONTRACTOR shall cooperate
563 and coordinate with the DISTRICT Contract Manager and StopWaste staff on public
564 education activities, including reviewing DISTRICT-developed materials and publications
565 for content and applicability based on its knowledge of day-to-day operations within the
566 DISTRICT and the "Zero Waste" industry in general, upon DISTRICT request.
567 CONTRACTOR is aware that StopWaste is responsible for regional public education and
568 outreach for schools, self-hauled waste, and home Composting. CONTRACTOR shall not
569 engage in public education and outreach around these subjects without coordination with
570 and approval of the DISTRICT Contract Manager or StopWaste.

571 CONTRACTOR shall obtain approval from the DISTRICT Contract Manager on any
572 CONTRACTOR-provided public education materials including, but not limited to: print, radio,
573 television, or internet media before publication, distribution, and/or release. DISTRICT shall have
574 the right to request that CONTRACTOR include DISTRICT identification and contact information
575 on CONTRACTOR-provided public education materials and approval of such requests shall not
576 be unreasonably withheld.

577 **4.8 BILLING**

578 CONTRACTOR shall bill all Customers and be solely responsible for collecting billings at Rates
579 set in accordance with Article 8. Billing shall be performed on the basis of services rendered and
580 this Agreement shall create no obligation on the part of any Person on the sole basis of the
581 ownership of property.

582 CONTRACTOR shall bill all Single-Family Residential Customers quarterly in advance of services
583 provided. For purposes of this Section, "quarterly" shall mean that CONTRACTOR shall bill for
584 service in the months of July, August, and September in July; shall bill for services in the months

585 of October, November, and December in October; shall bill for services in the months of January,
586 February, and March in January; and, shall bill for services in the months of April, May, and June
587 in April. CONTRACTOR shall bill all Commercial and Multi-Family Customers for scheduled and
588 regularly recurring services on a monthly basis in arrears of services provided. CONTRACTOR
589 shall bill Customers for any on-call and/or non-recurring services no more frequently than monthly
590 and may only bill for services provided during the previous month. CONTRACTOR shall include
591 in a list of all on-call and/or non-recurring service charges billed during the previous month to the
592 DISTRICT in accordance with Exhibit D. DISTRICT may direct CONTRACTOR to provide
593 electronic mailers to Customers related to the DISTRICT or intended to support the DISTRICT's
594 Zero Waste goals. In such event, CONTRACTOR shall comply with such request during its next
595 billing cycle for the targeted Customer group. CONTRACTOR shall perform this service with no
596 additional requirement for compensation. In the event that, during the Term of this Agreement, it
597 becomes reasonably possible to attach such electronic notices to Customer invoices,
598 CONTRACTOR shall notify the DISTRICT, and upon DISTRICT request, shall replace and/or
599 supplement electronic mailers with electronic invoice attachments.

600 CONTRACTOR's web site shall provide Customers with the ability to pay their bills through an
601 electronic check or credit card and include the ability for Customer billings to be automatically
602 charged on a recurring basis. CONTRACTOR shall prepare, mail, and collect bills from
603 Customers who decline to use such internet-based billing system. CONTRACTOR shall make
604 arrangements to allow Customers to pay bills by cash, check, electronic check, money order, and
605 credit card.

606 CONTRACTOR shall maintain copies of all billings and receipts, each in chronological order, for
607 the Term of this Agreement, for inspection and verification by the DISTRICT Contract Manager at
608 any reasonable time but in no case more than thirty (30) calendar days after receiving a request
609 to do so.

610 CONTRACTOR shall be responsible for collection of payment from Customers with past due
611 accounts ("bad debt") in accordance with this Section 4.8. CONTRACTOR shall make reasonable
612 efforts to obtain payment from delinquent accounts through issuance of late payment notices,
613 telephone requests for payments, and assistance from collection agencies.

614 In the event that any account becomes more than thirty (30) calendar days past due,
615 CONTRACTOR shall notify such Customer of the delinquency via written correspondence,
616 instructing the property Owner that unpaid bills which become more than forty-five (45) days
617 delinquent may be assessed a one and one half percent (1.5%) late fee per month.
618 CONTRACTOR shall provide a second written notice of delinquency to any account which
619 becomes more than sixty (60) calendar days past due, and a third written notice of delinquency
620 to any account which becomes more than ninety (90) calendar days past due. The sixty (60) and
621 ninety (90) day notices shall instruct the Customer that unpaid bills which become more than one
622 hundred twenty (120) calendar days delinquent will be subject to assessment through property
623 taxes.

624 Should any Customer account become more than one hundred twenty (120) calendar days past
625 due, CONTRACTOR shall provide notice to the Customer, via written correspondence with a copy
626 to the DISTRICT Contract Manager that the unpaid amount will be subject to a special
627 assessment on the Alameda County tax roll, and subject to a fifty dollar (\$50) administrative fee.
628 CONTRACTOR and DISTRICT shall comply with the process for conducting the special
629 assessment as described in Exhibit J.

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If Contractor fails to invoice a Customer, or otherwise under-charges a Customer for services provided, Contractor may not subsequently attempt to collect the under-charged amount for more than thirty six (36) months of service. If Contractor over-charges a Customer, Contractor shall reimburse or credit the Customer for the over-charged service, but is not required by this Agreement to reimburse or credit the Customer for more than thirty six (36) months of overcharges. This Agreement also does not prohibit Contractor from reimbursing or crediting a Customer for more than thirty six (36) months of overcharges.

638 **4.9 CUSTOMER SERVICE PROGRAM**

639 **4.9.1 Program Requirements**

640 **A. Availability of Representatives.** A representative of the CONTRACTOR who is
641 knowledgeable of the service area, services, and Rates shall be available from 7 a.m. to
642 6 p.m. Monday through Friday to communicate with the public in person and by telephone.
643 CONTRACTOR shall maintain representative(s) with the ability to communicate in
644 English, Spanish, Mandarin and Cantonese. CONTRACTOR shall maintain a local or toll-
645 free telephone number which it shall publicize. CONTRACTOR shall also maintain an
646 after-hours telephone number allowing twenty-four (24) hour per day access to
647 CONTRACTOR management by DISTRICT Contract Manager in the event of an
648 emergency involving CONTRACTOR's equipment or services including, but not
649 necessarily limited to, fires, blocked access, or property damage.

650 **B. Telephone.** CONTRACTOR shall maintain a telephone system in operation from 7 a.m.
651 to 6 p.m. and shall have sufficient equipment in place and staff available to handle the
652 volume of calls experienced on the busiest days and such telephone equipment shall be
653 capable of recording the responsiveness to calls. In the event that CONTRACTOR's
654 telephone customer service performance falls below the performance standards
655 established in Exhibit F, the DISTRICT shall have the right to require CONTRACTOR to
656 increase its staffing levels and/or call handling capacity without requirement for any
657 additional compensation to the CONTRACTOR. Recording of CONTRACTOR's
658 responsiveness to calls shall include, at a minimum, all items included in the "Service
659 Quality and Reliability" and "Customer Service" performance standards listed in Exhibit F.
660 An answering machine or voicemail service shall record Customer calls and voice
661 messages between 6:00 p.m. and 7:00 a.m. CONTRACTOR shall provide a live, not
662 automated, call back on the same day to all Customers who leave voice messages by
663 5:00 p.m. and shall provide a live call back by noon of the following Business Day for any
664 voice messages left after 5:00 p.m.

665 **C. Web Site.** CONTRACTOR shall develop and maintain a web site that is accessible by
666 the public. CONTRACTOR's web site shall include all public education and outreach
667 materials described in Exhibit C and provide the public the ability to e-mail CONTRACTOR
668 questions, service requests, or Complaints.

669 **D. Local Office.** Throughout the Term of this Agreement CONTRACTOR shall maintain a
670 local office within Alameda County where, at a minimum, the representative(s) identified
671 in 4.9.1.A above are located.

982 **5.5 COLLECTION VEHICLE REQUIREMENTS**

983 CONTRACTOR shall provide a fleet of Collection vehicles sufficient in number and capacity to
984 efficiently perform the work required by the Agreement in strict accordance with its terms.
985 CONTRACTOR shall have available sufficient back-up vehicles for each type of Collection vehicle
986 used to respond to scheduled and unscheduled maintenance, service requests, complaints, and
987 emergencies. All Collection vehicles shall operate on compressed natural gas (CNG). All such
988 vehicles shall have watertight bodies designed to prevent leakage, spillage, or overflow. All such
989 vehicles shall meet On-Road Heavy Duty Vehicle emissions requirements for model year 2019,
990 regardless of the actual model year of CONTRACTOR's vehicles, and generally comply with all
991 Federal, State, and local laws and regulations.

992 Collection vehicles shall present a clean appearance while providing service under this
993 Agreement. CONTRACTOR's name and local telephone number shall be displayed on all
994 vehicles in at least four (4) inch characters. Vehicles shall be equipped with sign board holders or
995 other hardware to allow public education signage of no less than thirty-six (36) by forty-eight (48)
996 inches to be displayed on both sides of the vehicle.

997 CONTRACTOR shall inspect each vehicle daily to ensure that all equipment is operating properly.
998 Vehicles that are not operating properly shall be taken out of service until they are repaired and
999 operate properly. CONTRACTOR shall repair, or arrange for the repair of, all of its vehicles and
1000 equipment for which repairs are needed because of accident, breakdown or any other cause so
1001 as to maintain all equipment in a safe and operable condition. DISTRICT Contract Manager may
1002 inspect vehicles at any reasonable time, and within three (3) calendar days of such a request, to
1003 determine compliance with sanitation requirements.

1004 All Collection operations shall be conducted as quietly as possible and shall conform to applicable
1005 Federal, State, County, and DISTRICT noise level regulations, including the requirement that the
1006 noise level during the stationary compaction process not exceed sixty (60) decibels with the
1007 exception of sixty-five (65) decibels for one-minute duration. All decibel readings shall be based
1008 on a distance of ten (10) feet from any part of the Vehicle. The DISTRICT may request
1009 CONTRACTOR to check any piece of equipment for conformance with the noise limits in
1010 response to complaints and/or when the DISTRICT Contract Manager believes it is reasonable
1011 to do so.

1012 **5.6 CONTAINER REQUIREMENTS**

1013 Prior to the Commencement Date, the DISTRICT will have assumed ownership of all Carts in
1014 service in the DISTRICT at that time, and will transfer any existing inventory of Carts not in service
1015 to CONTRACTOR for purposes of storing, maintaining, and distributing such Carts to Customers.
1016 CONTRACTOR shall be responsible for purchasing new Carts throughout the Term of this
1017 Agreement and replacing the existing inventory as Carts become unserviceable. CONTRACTOR
1018 shall procure and provide all Bins and Drop Boxes to all Customers subscribing to Bin and Drop
1019 Box service. CONTRACTOR-provided Containers shall be designed and constructed to be
1020 watertight and prevent the leakage of liquids. All Carts shall display the DISTRICT's name, logo,
1021 telephone number, website, and some identifying inventory or serial number. All Bins and Drop
1022 Boxes shall display the CONTRACTOR's name, telephone number, website, and some identifying
1023 inventory or serial number.

1024 In the interest of creating effective and consistent public education and outreach, CONTRACTOR
1025 will utilize its Containers to reinforce public education messages. All Recyclable Materials Carts,

1026 Bins and other Containers shall be blue in color. All Organic Materials Carts, Bins and other
1027 Containers shall be green in color. All Garbage Carts, Bins and other Containers shall be grey in
1028 color. CONTRACTOR's Containers shall also be labeled with a list of acceptable and prohibited
1029 materials which complies with the requirements of the Alameda County Mandatory Recycling
1030 Ordinance. Specific color selections and labels shall be approved by the DISTRICT Contract
1031 Manager prior to placing the order for any new Containers.

1032 All Containers shall be maintained in a safe, serviceable, and functional condition and present a
1033 clean appearance. Customers using Carts shall be responsible for cleaning such Carts.
1034 CONTRACTOR shall resolve any Customer complaints related to any damaged Container(s) by
1035 repairing, to the Customer's satisfaction, or replacing such Container(s) within three (3) Business
1036 Days of CONTRACTOR's first receipt of the Customer complaint. CONTRACTOR shall steam
1037 clean and repaint all Containers, except Carts, as requested by Customer or as deemed
1038 necessary by CONTRACTOR or DISTRICT Contract Manager to present a clean appearance. A
1039 Cart Exchange/Replacement fee may be charged to the Customer by Contractor in cases when
1040 the number of Cart exchanges or Cart replacements is deemed excessive by the DISTRICT
1041 Contract Manager, or ~~if Customer requests steam cleaning, or painting more frequently than one~~
1042 ~~(1) time per year, CONTRACTOR may charge the Customer at approved Rates for such service.~~
1043 If any Container is impacted by graffiti, CONTRACTOR shall remedy the situation within fourteen
1044 (14) calendar days of notification at no additional charge.

1045 5.7 PERSONNEL

1046 **A. General.** CONTRACTOR shall furnish such qualified personnel as may be necessary to
1047 provide the services required by this Agreement in a safe and efficient manner.
1048 CONTRACTOR shall designate at least one (1) qualified employee as DISTRICT's
1049 primary point of contact with CONTRACTOR who is principally responsible for Collection
1050 operations and resolution of service requests and complaints. Such individual shall be
1051 empowered to negotiate on behalf of and bind CONTRACTOR with respect to any
1052 changes in scope, dispute resolution, compensation adjustments, and service related
1053 matters which may arise during the Term of this Agreement.

1054 CONTRACTOR shall use its best efforts to assure that all employees present a neat
1055 appearance and conduct themselves in a courteous manner. CONTRACTOR shall not
1056 permit its employees to accept, demand, or solicit, directly or indirectly, any additional
1057 compensation, or gratuity from Customers or members of the public.

1058 **B. Hiring of Displaced Employees.** CONTRACTOR is aware of and shall comply with the
1059 requirements of and duties imposed by Sections 1072 and 1075 of the California Labor
1060 Code regarding offers of employment to any displaced employees resulting from a change
1061 in service provider, if any, resulting from this Agreement or upon the expiration of this
1062 Agreement.

1063 The minimum staffing positions to be provided by CONTRACTOR to perform the services
1064 described herein to the DISTRICT are identified in Exhibit H. Failure to consistently
1065 maintain these staffing levels during the Term of the Agreement shall be considered a
1066 material breach.

1067 **C. Driver Qualifications.** All drivers must have in effect a valid license, of the appropriate
1068 class, issued by the California Department of Motor Vehicles. CONTRACTOR shall use
1069 the Class II California Department of Motor Vehicles employer "Pull Notice Program" to