

**City and County of San Francisco
Environment Department
1155 Market Street, 3rd Floor
San Francisco, CA 94103**

**Second Amendment to the
Landfill Disposal Agreement between
The City and County of San Francisco and
Recology San Francisco**

THIS SECOND AMENDMENT (“Amendment”) of the **Landfill Disposal Agreement** is made as of [REDACTED], in San Francisco, California, by and between **Recology San Francisco** (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Environment Department. (Contractor and City together shall be referred to as “Parties.”)

Recitals

WHEREAS, the Parties entered into the Landfill Disposal Agreement on July 22, 2015; and

WHEREAS, the Parties amended the Landfill Disposal Agreement through a First Amendment dated May 1, 2016 (the Landfill Disposal Agreement as modified through the First Amendment shall be referred to herein as “Agreement”);

WHEREAS, the Agreement has a term limit of 9 years or 3.4 million tons of solid waste disposed, whichever comes first, and the disposal of solid waste under the Agreement began on January 15, 2016; and

WHEREAS, the Agreement term of 9 years will expire on July 21, 2024, and the Parties estimate that the maximum solid waste disposal amount of 3.4 million tons will not yet have been reached by that date; and

WHEREAS, the Parties desire to modify the Agreement on the terms and conditions set forth herein to extend the term of the Agreement, consistent with the option language in the Agreement, and to update standard contract terms; and

WHEREAS, Contractor was competitively selected pursuant to a Request for Proposals (RFP) entitled “Request for Proposals for Landfill Disposal Capacity,” issued on February 9, 2009, and this Amendment is consistent with the terms of that RFP; and

WHEREAS, the City’s Board of Supervisors adopted a Resolution on July 26, 2011, that approved under Charter Section 9.118(b) an earlier version of the Agreement, which was subsequently terminated in 2012, and the Board of Supervisors adopted Ordinance No. 8-14 on February 4, 2014, finding, among other things, that the competitive selection process that

resulted in the selection of Recology for the Agreement satisfied City competitive solicitation requirements;

WHEREAS, this Amendment is consistent with an approval obtained from the City's Board of Supervisors under [insert resolution number] approved on [insert date of Board action] for the extension of the term of the Agreement, pursuant to the option specified in Section 2.2 of the Agreement; and

Now, THEREFORE, the parties agree as follows:

Article 1 Definitions

The following definitions shall apply to this Amendment:

1.1 **Agreement.** The term "Agreement" shall mean the Landfill Disposal Agreement dated July 22, 2015 between Contractor and City, as amended by the First Amendment thereto dated May 1, 2016.

1.2 **San Francisco Labor and Employment Code.** As of January 4, 2024, San Francisco Administrative Code Chapters 21C (Miscellaneous Prevailing Wage Requirements), 12B (Nondiscrimination in Contracts), 12C (Nondiscrimination in Property Contracts), 12K (Salary History), 12P (Minimum Compensation), 12Q (Health Care Accountability), 12T (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), and 12U (Sweatfree Contracting) are redesignated as Articles 102 (Miscellaneous Prevailing Wage Requirements), 131 (Nondiscrimination in Contracts), 132 (Nondiscrimination in Property Contracts), 141 (Salary History), 111 (Minimum Compensation), 121 (Health Care Accountability), 142 (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), and 151 (Sweatfree Contracting) of the San Francisco Labor and Employment Code, respectively. Wherever the Agreement refers to San Francisco Administrative Code Chapters 21C, 12B, 12C, 12K, 12P, 12Q, 12T, and 12U, it shall be construed to mean San Francisco Labor and Employment Code Articles 102, 131, 132, 141, 111, 121, 142, and 151, respectively.

1.3 **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

Article 2 Modifications of Scope to the Agreement

The Agreement is hereby modified as follows:

2.1 **Term of the Agreement.** Section 2.2 of the Agreement currently reads as follows:

The Contractor hereby agrees to provide the City the right to deposit for Disposal, in a lawful manner, from and after the Commencement Date, at the Landfill, all Solid Waste collected in San Francisco by Permitted Haulers or self-haulers, for a period of nine (9) years from the Effective Date of this Agreement, as defined in Section 2.3, or until 3.4 million tons of Solid Waste have been deposited under this Agreement, whichever comes first. The City shall have one (1) option to renew the Agreement for a period of six (6) years, or until an additional 1.6 million tons of Solid Waste have been deposited under this Agreement, whichever comes first.

The City may extend the Agreement beyond the expiration date by exercising the option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 43, "Modification of Agreement." Any remaining unused disposal capacity authorized under the initial term of the Agreement may be added to the disposal capacity authorized under the extension, but the total amount of Solid Waste disposed of under the Agreement, including both the initial term and the extension, may not exceed 5 million tons. The period from the Commencement Date until the expiration or earlier termination of this Agreement is referred to herein as the "Disposal Term." The parties may mutually agree to terminate this Agreement.

Such section is hereby amended in its entirety to read as follows:

The Contractor hereby agrees to provide the City the right to deposit for Disposal, in a lawful manner, from and after the Commencement Date, at the Landfill, all Solid Waste collected in San Francisco by Permitted Haulers or self-haulers, through July 21, 2030, or until 5.0 million tons of Solid Waste have been deposited under this Agreement, whichever comes first. The period from the Commencement Date until the expiration or earlier termination of this Agreement is referred to herein as the "Disposal Term." The parties may mutually agree to terminate this Agreement.

2.2 Section 23 Notices to the Parties. *Section 23 of the Agreement is replaced in its entirety to read as follows:*

23. Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, or otherwise legally required, all communications required or permitted hereunder shall be in writing and shall be sent by e-mail, facsimile, registered U.S. mail, or nationally recognized overnight courier, and shall be addressed as follows:

To City: Tyrone Jue, Director, San Francisco Environment Department, 1455 Market Street, Suite 13B, San Francisco, CA, 94103, E-Mail: tyrone.jue@sfgov.org.

To Contractor: Evan Boyd, Vice President and Region Manager, San Francisco Region, Recology San Francisco, 250 Executive Park Boulevard, Suite 2100, San Francisco, CA 94134, E-Mail: eboyd@recology.com.

with a copy to:

Bryce Giddens, General Counsel, Recology Inc., 50 California Street, 24th Floor, San Francisco, CA 94111, E-Mail: bgiddens@recology.com.

Any notice of default or data breach must be sent by certified mail or other trackable written communication, and also by e-mail, with the sender using the receipt notice feature. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party at least ten (10) days prior to the effective date of such change. If email notification is used to change a Party's notice address, the sender must specify a receipt notice.

2.3 **Section 26 Assignment.** *Section 26 of the Agreement is replaced in its entirety to read as follows:*

26. Assignment. Services to be performed by Contractor are personal in character. This Agreement may not be directly or indirectly assigned, novated, or otherwise transferred unless first approved by City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

2.4 **Section 53 Notification of Legal Requests.** The following section is hereby added to the Agreement:

53. Notification of Legal Requests. Contractor shall immediately notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests (“Legal Requests”) related to all data given to Contractor by City in the performance of this Agreement (“City Data” or “Data”), or which in any way might reasonably require access to City’s Data, and in no event later than 24 hours after it receives the request. Contractor shall not respond to Legal Requests related to City without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Contractor shall retain and preserve City Data in accordance with the City’s instruction and requests, including, without limitation, any retention schedules and/or litigation hold orders provided by the City to Contractor, independent of where the City Data is stored.

Article 3 Effective Date

Each of the modifications set forth in Article 2 shall be effective upon signing and shall continue until the end of the Disposal Term.

Article 4 Legal Effect

Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

Recommended by:

CONTRACTOR

Recology San Francisco

Tyrone Jue
Director
Environment Department

Salvatore M. Coniglio
Chief Executive Officer

City Supplier number: 0000012409

Approved as to Form:

David Chiu
City Attorney

By:

Sarah Crowley
Deputy City Attorney