

COMMERCIAL ORGANICS RECYCLING PROGRAM AGREEMENT

This Commercial Organics Recycling Program Agreement (“CORP Agreement”) is entered into by the City of Brea, a municipal corporation (“City”), and Taormina Industries, LLC, a wholly owned subsidiary of Republic Services, Inc. d.b.a. Brea Disposal (“Franchisee”), collectively, “the Parties”, and is dated November 19, 2019 for reference purposes.

RECITALS

- A. The Parties entered into a September 3, 2002 Restated and Amended Agreement for the Collection, Transportation, Recycling, Composting and Disposal of Solid Waste, Recyclable and Compostable Materials (“Waste Hauling Agreement”) to restate and amend their contractual obligations in connection with an exclusive franchise for collection, transportation, recycling, composting, and disposal of solid waste, recyclable, and compostable materials.
- B. In 2014, the Legislature enacted AB 1826 (Chesbro, Chapter 727) to establish a multi-tier compliance schedule for businesses to arrange for organic waste recycling services.
- C. The Parties desire to supplement the Waste Hauling Agreement for a limited set duration of five years to: (i) provide for Franchisee’s implementation of a commercial organics recycling program in compliance with AB 1826; (ii) increase the rate schedule for participating businesses to reflect the cost of providing such program; and (iii) allow the Parties to review and evaluate the program as implemented.
- D. Nothing in this CORP Agreement amends or abridges the Waste Hauling Agreement in any way and this Agreement is entered into solely to facilitate implementation of an organics recycling program for a set period as directed by City in order to meet City’s compliance requirements under AB 1826.

NOW, THEREFORE, the Parties agree as follows:

- Relationship to Waste Hauling Agreement.** This CORP Agreement is supplemental and subject to the Waste Hauling Agreement with respect to implementation of a commercial organics recycling program. During the term of this CORP Agreement, all of the provisions of the Waste Hauling Agreement shall remain unaltered and in full force and effect. In the event of a direct conflict between the provisions of this CORP Agreement and the provisions of the Waste Hauling Agreement, the provisions of this CORP Agreement shall control solely during the term of this CORP Agreement. Nothing herein shall be read or construed to authorize City’s use of any other solid waste enterprise or vendor to perform services under this CORP Agreement or the Waste Hauling Agreement.
- Definitions.** The following definitions shall apply for purposes of this CORP Agreement. Whenever any term used in this CORP Agreement has been defined by Chapter 8.28 of the Brea City Code, by Division 30 (commencing with § 40000) of the California Public Resources Code, or by the Waste Hauling Agreement, the definition in the Brea City Code, the California Public Resources Code, or the Waste Hauling Agreement shall apply unless otherwise expressly stated in this CORP Agreement.

- A. "CalRecycle" means California Department of Resources Recycling and Recovery.
- B. "Commercial Organics Recycling Law" means Division 30, Part 3, Chapter 12.9 (commencing with § 42649.8) (commonly referred to as AB 1826) of the California Public Resources Code, and as implemented by CalRecycle.
- C. "Food Waste" means: (i) kitchen and table food scraps; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) discarded paper that is contaminated with such waste; and (iv) fruit waste, grain waste, dairy waste, meat, and fish waste that has been source separated from other solid waste. Food waste is a subset of organic waste.
- D. "Organic Waste" is "Municipal Solid Waste" pursuant to Sections 1.A and 1.B of the Waste Hauling Agreement, and has the meaning set forth in the Commercial Organics Recycling Law.
- E. "Organic Waste Processing Facility" means a permitted facility where organic waste is sorted, mulched, or separated for the purposes of recycling, reuse, or composting.
- F. "Multifamily Residential Dwelling" means a premises containing more than one (1) residential dwelling unit (including a premises incorporating residential dwelling units and nonresidential uses) at which Franchisee determines, with the City Manager's concurrence (which may be granted or withheld in the City Manger's absolute discretion), that the residential dwelling units must receive solid waste, recycling, and green waste services through the use of shared bins because the premises is not reasonably able to store containers or otherwise receive individualized solid waste handling service through the use of the automated collection system utilizing containers contemplated by this Agreement for residential premises. Multifamily residential dwelling always includes a residential dwelling that consists of five (5) or more units.

3. Term.

A. This CORP Agreement shall commence on November 20, 2019 and shall expire on December 31, 2024 unless earlier terminated pursuant to paragraph (B) below. The Parties shall meet and confer at least two (2) months before the expiration date to decide if this CORP Agreement shall extend beyond the original term.

B. If there are changes to State law (including material amendment or repeal of the Commercial Organics Recycling Law) or technological advances that modify or eliminate the need for a commercial organics recycling program as currently structured, then the Parties shall renegotiate this CORP Agreement in good faith. If the Parties cannot reach a consensus, either Party may terminate this CORP Agreement on sixty (60) days notice to the other Party.

C. Upon expiration or termination of this CORP Agreement, as of the expiration or termination date Franchisee shall cease implementing the commercial organics recycling program and shall cease charging commercial and multifamily residential dwelling accounts for commercial organics recycling program services. Nothing herein shall be interpreted or construed to modify or change in any way Franchisee's rights as set forth in Sections 1.A and 1.B of the Waste Hauling Agreement. In the event of an early termination, the Parties shall be governed by the terms and

conditions of the Waste Hauling Agreement or a revised program agreement if approved by the Parties.

4. **Program Implementation.** Franchisee shall implement a commercial organics recycling program as follows:

A. City shall ensure that the commercial organics recycling program will meet the requirements of the Commercial Organics Recycling Law. Franchisee shall ensure that the collection, processing and disposal of commercial organics shall meet the requirements of the Commercial Organics Recycling Law. In the event of a change to the Commercial Organics Recycling Law, including any amendments, adoption or repeal of regulations or judicial interpretation, the Parties shall meet and confer regarding any necessary or appropriate modifications to this Agreement or the commercial organics recycling program.

B. Franchisee shall make available to customers information related to the commercial organics recycling program through its website, brochures, billing inserts, e-mail content, social media, and online announcements.

C. Franchisee shall cause all organic waste deposited into bins or carts of commercial subscribers, multifamily residential dwellings, and City facilities to be managed using methods approved by CalRecycle for diversion credit.

D. Franchisee shall offer commercial organics recycling program services to commercial subscribers, multifamily residential dwellings, and City facilities. There shall be no cost for organic waste recycling for City facilities.

E. Franchisee shall offer commercial organics recycling program services based on the receptacle size and service frequency as contained in the Rate Schedule in Exhibit 1 (as adjusted based on CPI pursuant to § 8.F of the Waste Hauling Agreement). The services offered shall allow customers to choose from either a two (2) cubic yard bin or a sixty-four (64) gallon cart, and shall allow customers to choose whether the service shall be provided once, twice, or three (3) times per week. If CalRecycle determines that mandatory commercial organics service shall be provided on or after January 1, 2020 to businesses that subscribe to two (2) cubic yards or more of solid waste service per week, then Franchisee will also offer a 35-gallon cart at the rate identified in Exhibit 1 (as adjusted based on CPI pursuant to § 8.F of the Waste Hauling Agreement) for businesses that generate a small amount of organic waste.

F. Unless otherwise specified, City may contact customers through direct mail, e-mail, telephone calls, site visits and/or other methods, provided that such methods meet CalRecycle requirements. Franchisee shall provide City with customer information within ten (10) business days from the date of the request.

G. Upon encountering a contaminated organic waste receptacle, Franchisee shall document such receptacle using a driver on-board system, shall forward the message to its dispatch personnel, and shall photograph such receptacle. Franchisee shall advise the customer that Franchisee will return the following business day to provide service for the contaminated receptacle. Franchisee shall contact and provide education materials to the customer on appropriate items to be placed in an organic waste receptacle. For each instance of a contaminated organic

waste receptacle, Franchisee may charge the customer the fee identified in Exhibit 1 (as adjusted based on CPI pursuant to § 8.F of the Waste Hauling Agreement).

H. On or before December 13, 2019, Franchisee shall provide City with: (i) a list of commercial subscribers that create large amounts of organic waste, such as hotels, business parks, and multifamily residential dwellings with significant landscaping waste; and (ii) a list of commercial subscribers that have food service operations such as restaurants, grocery stores, hospitals, corporate cafes, bakeries, etc. Franchisee shall update such lists as necessary upon request from City.

I. If necessary or requested by CalRecycle, City shall conduct visual waste audits of commercial premises and multifamily residential dwellings to evaluate their organic waste service requirements and service level needs. If necessary or requested by CalRecycle, Franchisee shall conduct visual waste audits of commercial premises and multifamily residential dwellings for program subscribers to evaluate their organic waste service requirements and service level needs not more than once per year. Upon customer request, Franchisee shall provide program subscribers with training materials for employees such as servers, food preparers, and hospitality and maintenance staff, taking into consideration employee turnover and shift changes.

J. If necessary or requested by CalRecycle, City shall conduct customer surveys and onsite waste assessments of commercial premises and multifamily residential dwellings that: (i) are subject to the Commercial Organics Recycling Law; (ii) do not receive Franchisee-provided commercial organics recycling program services; and (iii) either utilize an in-house program, donate edible foods to a charitable organization, or recycle using a third party vendor. Franchisee shall submit copies of all waste assessments performed for program subscribers as part of the annual report to City in accordance with § 15.F of the Waste Hauling Agreement. In the event a customer subject to the Commercial Organics Recycling Law refuses Franchisee-provided commercial organic recycling program services and does not report to Franchisee that it achieves organic waste recycling via an in-house program, food donations, or through a compliant third party recycling program, Franchisee shall provide to City information including such customer's name, address, and contact information on a City approved template for inclusion with State reporting. City shall manage any survey or assessment information submitted by Franchisee as confidential and proprietary customer account information to the full extent permitted by California law when designated as such by Franchisee in its reporting. City may share such information with its third-party consultants as necessary subject to a written confidentiality agreement.

K. Franchisee shall provide necessary coordination to enable City to contact and provide outreach to commercial premises and multifamily residential dwelling subscribers as follows:

1. Initial Direct Mailing. City will initiate the initial direct mailing. Franchisee shall provide City with all commercial and industrial account information within ten (10) business days from the date of the request.

2. On-Site Meetings. Upon City request, Franchisee shall have on-site discussions with potential commercial organics recycling program customers regarding container

mix options. Franchisee shall provide this service free of charge for up to twenty-five (25) potential customers/sites per year.

3. Training. Franchisee shall provide training to City's designated Recycling Coordinator free of charge so this individual is capable of conducting on-site discussions with potential commercial organics recycling program customers regarding container mix options. Any account information requested by City for such discussions shall be provided by Franchisee as soon as possible, but no later than five (5) business days from the date of the request.

4. Out of Compliance Outreach. City will prepare a multi-lingual letter on City letterhead to notify noncompliant customers of their noncompliance and the annual reporting requirements to CalRecycle. Upon concurrence regarding the content of the letter from both City and Franchisee, City shall mail or deliver the letter to all noncompliant customers identified using Franchisee's database. For reporting to CalRecycle, Franchisee shall provide City with a list of all noncompliant customers including their contact person, service and billing addresses, phone number, e-mail address, account notes. City will provide the compliance outreach. Franchisee will provide City with all commercial and industrial account information as requested and will provide a list of all program subscribers within ten (10) business days from the date of the request.

5. Ongoing Outreach to Program Subscribers.

a. Franchisee shall provide ongoing commercial organics recycling program information to all existing and new customers who have subscribed to the commercial organics recycling program. Such information shall include: step by step process; guidelines for new employee training; do's and don'ts of separation; signage examples; source reduction suggestions; links to online Franchisee and City programs/resources; information on environmentally preferable purchasing policies; and resource list of sustainability programs and toolkits from trade organizations (e.g., National Restaurant Association and US Composting Council Curb to Compost Toolkit) and government agencies (e.g. EPA toolkit for Reducing Food Waste and Packaging and FTC Guidelines on compostable and degradable claims).

b. Franchisee shall provide samples of indoor and outdoor receptacle options and signage.

c. City shall provide contact information of potential program subscriber's startup team to Franchisee. Franchisee shall contact or provide information to the customer's startup team to implement the program and provide long term support.

d. If requested by customers, Franchisee shall conduct comprehensive, in-house, multi-lingual trainings with kitchen and janitorial staff at no additional charge. (Annually). Franchisee shall make training resources available to both City and program subscribers including, but not limited to, instructional training videos.

e. Franchisee shall follow-up and monitor organic customers to ensure successful participation, which shall include visual audits and additional training when necessary.

f. Franchisee shall provide program subscribers with examples of receptacle options and signage to identify receptacles.

g. Franchisee will connect program subscribers with food donation programs when requested by program subscribers.

5. **Program Fee.** Franchisee may charge commercial and multifamily residential dwelling accounts as follows to facilitate implementation of the commercial organics recycling program.

A. **Generator Only User Rates.** Franchisee may charge the rates specified in Exhibit 1 (as adjusted based on CPI pursuant to § 8.F of the Waste Hauling Agreement) for commercial organics recycling program services.

B. **Adjustment for Organic Waste Recycling Costs.** The parties acknowledge that Franchisee is using its own organic waste processing facility as of November 5, 2019, and that the rates specified in Exhibit 1 have been set using the total amount of \$33.91 per cubic yard as the cost for organic waste recycling cost incurred by Franchisee. City may at any time direct Franchisee to use an alternative, technologically compatible organic waste processing facility specified by City. In such event, the Parties shall meet to negotiate in good faith an adjustment to increased or decreased handling, organic waste processing, labor and travel costs that reflect the substitute facility's costs. If City identifies a substitute facility that is not technologically compatible, then Franchisee shall in good faith consider changing to compatible processing methods, evaluate the feasibility and practicality of changing to that compatible technology, and if determined by Franchisee to be viable, negotiate any cost difference with City. Franchisee's determination after consideration and evaluation of the use of any substitute facility or incompatible technology shall be in its sole discretion.

C. **Adjustment for Organic Waste Disposal/Processing Fee Costs.** Effective July 1, 2020 and annually on July 1 thereafter, commercial rates will be adjusted for changes in the organic waste disposal and processing fee per ton based on CPI in accordance with Section 8.F of the Waste Hauling Agreement. Franchisee to provide back-up information for third party disposal costs upon request.

6. **Quarterly Organics Reports.** Franchisee shall provide to City on a quarterly basis until January 2022, and annually thereafter, in a format approved by City:

A. The total number of commercial premises and multifamily residential dwelling customers serviced by Franchisee that meet the thresholds of the Commercial Organics Recycling Law.

B. The number of these program subscribers that:

1. Subscribe to Franchisee-provided commercial organics recycling program;
2. Recycle a portion of their organic waste via an in-house program;
3. Donate a portion of their organic waste (edible food) to charitable organizations.

C. Contact information for commercial premises and multifamily residential dwelling customers (as available in Franchisee's database) that do not currently have an organic waste recycling program. Information to be provided within ten (10) business days from the date of the request.

D. All the reports provided to City shall, upon request of City or CalRecycle, include supporting documentation for the information provided in the report.

7. **Entire Contract.** This CORP Agreement (including the attached Exhibit 1) represents the entire and integrated contract between the Parties regarding commercial organics recycling program services. This Agreement supersedes all prior oral or written negotiations, representations and contracts related to this Agreement to implement such services. Subject to the provisions of the Waste Hauling Agreement, this CORP Agreement may not be amended, nor any provision or breach waived, except in a writing that is signed by the parties and that expressly refers to this CORP Agreement.

[SIGNATURES ON FOLLOWING PAGE]

CERTIFICATE OF SECRETARY

**RELATING TO THE COMMERCIAL ORGANICS
RECYCLING PROGRAM AGREEMENT
WITH THE CITY OF BREA
IN THE STATE OF CALIFORNIA**

The undersigned, Secretary of **REPUBLIC WASTE SERVICES OF SOUTHERN CALIFORNIA, LLC**, a Delaware limited liability company, formerly known as **TAORMINA INDUSTRIES, LLC** (the "Company"), hereby certifies that the following is a true and correct copy of the resolution which was duly adopted by **REPUBLIC SERVICES, INC.**, a Delaware corporation, the sole member of the Company (the "Member") by written consent of the Member on February 24, 2016, that such resolution has not been rescinded, amended or modified in any respect, and is in full force and effect on the date hereof:

RESOLVED, that (i) any individual at the time holding the position of General Manager or Area Director, Finance be, and each of them hereby is, appointed as an Authorized Agent, to act in the name and on behalf of the Company and to include the execution of related documents, in connection with the day-to-day business activities of the Company, and further, that (ii) in addition to the General Manager or Area Director, Finance, any individual at the time holding the position of Area Director, Business Development; Area Director, Operations; or Market Vice President be, and each of them hereby is, appointed as an Authorized Agent to execute any bid and proposal, and if awarded, any related contract for services to be performed by the Company and any bond required by such bid, proposal or contract, all in accordance with the existing Levels of Authority and other relevant policies and procedures.

I further certify that **DANIEL J. CAPENER** holds the title of General Manager and in such capacity has full authority to act in the name and on behalf of the Company as set forth in the foregoing resolution.

WITNESS MY HAND, this 5th day of November, 2019.

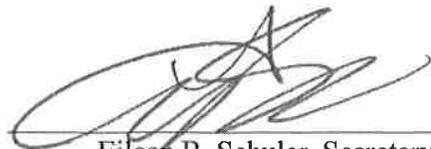

Eileen B. Schuler, Secretary

EXHIBIT 1
Schedule of Commercial Organics Container Rates - November 19, 2019

(attached)

EXHIBIT 1
Organic Collection Rates

| CITY OF BREA | | | | |
|--|--|----------|----------|----------------------------------|
| Receptacle Size | Monthly Rate based on Collection Frequency | | | Contamination Fee per Occurrence |
| | 1X | 2X | 3X | |
| 2 Cubic Yard Bin - Organics | \$293.86 | \$587.72 | \$881.58 | \$100.00 |
| 64 Gallon Organics Cart | \$54.95 | \$109.90 | \$164.86 | \$50.00 |
| 35 Gallon Organics Cart ⁽¹⁾ | See footnote #1 below. | | | |

Footnotes:

(1) If CalRecycle determines that mandatory commercial organics service shall be provided to customers on or after January 1, 2020 that subscribe to two-cubic yards or more of solid waste service per week, then Franchisee will also offer a 35-gallon organics cart collected one to three times per week at the same rate for commercial "Barrel Service" for customers who generate a small amount of organic waste.