

**FIRST AMENDMENT TO
AMENDED AND RESTATED
SOLID WASTE COLLECTION FRANCHISE AGREEMENT**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED SOLID WASTE COLLECTION FRANCHISE AGREEMENT (this "**Amendment**") is made and entered into this 29th day of July, 2016, in the State of California, and shall modify that certain Amended and Restated Solid Waste Collection Franchise Agreement, dated July 14th, 2010 (the "**Agreement**"), by and between the OCEANO COMMUNITY SERVICES DISTRICT, a Community Services District organized and operated pursuant to § 61000, et seq. of the Government Code of the State of California ("**District**") and SOUTH COUNTY SANITARY SERVICE, INC., a California corporation ("**Contractor**"). District and Contractor may be collectively referred to herein as the "**Parties**" and individually as a "Party", unless specifically identified otherwise.

RECITALS

WHEREAS, capitalized terms used herein but not otherwise defined shall have the respective meanings ascribed to them in the Agreement; and

WHEREAS, the Parties now wish to amend the Agreement to extend the Term of the Agreement conditioned upon Contractor's meeting the criteria set forth herein.

AGREEMENT

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES AGREE TO AMEND THE AGREEMENT, AS FOLLOWS:

1. **Amendment to Article 1 (Definitions)**. Article 1 of the Agreement is hereby amended to add or replace, as applicable, the following definitions:

"(i) "**Facility**" means any plant or site utilized by Contractor (or a subcontractor of Contractor) for the purposes of performing the duties to fulfill this Agreement, including, without limitation, processing the District's Green Waste and Food Waste. For purposes of Section 3.5, "**Facility**" means a Kompogas facility (or other similar technology) capable of processing the District's Green Waste and Food Waste."

"(ii) "**Facility Operation Date**" means the date on which, following its start-up, testing and commissioning, the Facility processes commercial quantities of Food Waste and Green Waste."

"(iii) "**Food Waste**" means a waste material of plant or animal origin that results from the preparation or processing of food for animal or human consumption and that is separated from the municipal solid waste stream. Food waste includes, but is not limited to, food waste from food facilities as defined in Health and Safety Code section 113789 (such as restaurants), food processing

establishments as defined in Health and Safety Code section 111955, grocery stores, institutional cafeterias (such as prisons, schools and hospitals), and residential food scrap collection. Food waste does not include any material that is required to be handled only pursuant to the California Food and Agricultural Code and regulations adopted pursuant thereto.”

2. **New Section 3.5.** Article 3 of the Agreement is hereby amended to add the following new Section 3.5:

“3.5 Additional Technology Extension.

3.5.1 Subject to the conditions set forth in Section 3.5.2 below, the Term of this Agreement shall be extended such that the Term of this Agreement shall expire at midnight on the twentieth (20th) annual anniversary of the Facility Operation Date, subject to further extension as provided in Section 3.3 (Option to Extend).

3.5.2 Contractor and District acknowledge that the foregoing twenty (20)-year Term extension is expressly contingent upon:

(a) By no later than January 1, 2018, Contractor executing a definitive long-term agreement with Hitachi Zosen Inova U.S.A. LLC (or other company approved by the District) for the development, construction and operation of a Kompogas Facility (or other similar technology) capable of processing the District’s Green Waste and Food Waste; and

(b) By no later than January 1, 2020, completion of a Kompogas Facility (or other similar technology) capable of processing the District’s Green Waste and Food Waste; provided, however, that in the event such Facility has not been completed by January 1, 2020, due to reasons beyond the reasonable control of, and not due to the fault or negligence of Contractor, such completion date shall be extended by the number of days reasonably required to complete the Facility, but only to the extent that Contractor uses (and continues to use) due diligence to pursue completion of the Facility.

3.5.3 In the event Contractor does not enter into such definitive agreement and/or the Facility is not constructed and operational within the time frames set forth in Section 3.5.2, Contractor and District agree the that the Term of this Agreement shall be until July 14, 2025, subject to further extension as provided in Section 3.3 (Option to Extend).”

3. **Amendment and Restatement of Section 5.2.3.** Section 5.2.3 of the Agreement is hereby amended and restated in its entirety as follows:

“5.2.3 Contractor recognizes that because of an unusual circumstance, a Single Family Dwelling Unit may generate more Recyclable Material than will fit in the blue Recyclable Materials Container. The excess Recyclable Material may be neatly placed next to the blue Container and Contractor will Collect the excess Recyclable Material at no additional charge. This extra service to a Single Family

Dwelling Unit shall be limited to a frequency of once per month and a quantity equal to an amount that will fit into the existing blue Recycling Materials Container.”

4. **Amendment and Restatement of Section 5.4.** Section 5.4 of the Agreement is hereby amended and restated in its entirety as follows:

“5.4 Refusal to Provide Collection Services. Contractor may refuse to Collect Recyclable Materials or Greenwaste and shall not be obligated to continue to provide Container(s) to any participant in the Recycling or Greenwaste program who, after reasonable warning by Contractor, fails to properly sort and set out Recyclable Materials or Greenwaste, including excessive contamination. Contractor shall copy the District of any compliance service letters sent to any property owners and/or customers.”

5. **Amendment and Restatement of Section 5.11.3.** Section 5.11.3 of the Agreement is hereby amended and restated in its entirety as follows:

“5.11.3 Alternative Processing Facility. If Contractor becomes unable to deliver District's Recyclable Materials to the Materials Recovery Facility due to causes within its control and which could have been avoided by the exercise of due care, Contractor shall arrange for it to be accepted at another Materials Recovery Facility, in which case Contractor shall pay for any increased transportation costs, any differences in the fees charged at such Materials Recovery Facility and the fees then in effect under this Agreement. If Contractor's inability to deliver District's Recyclable Materials to the Materials Recovery Facility is not due to causes within its control or which could have been avoided by the exercise of due care, then Contractor shall propose alternative Material Recovery Facilities including all related costs and District shall, after conducting reasonable due diligence with regard to such alternative facility, have the right to approve the alternative to be used. In such an event, Contractor shall be entitled to proceed with an adjustment in its compensation in accordance with Section 8.4 (Special Interim Rate Review) for the increased cost of using an alternative facility.”

6. **Amendment and Restatement of Section 6.3.** Section 6.3 of the Agreement is hereby amended and restated in its entirety as follows:

“6.3 Collection of Bills from Delinquent Solid Waste Customers. Contractor may discontinue service as set forth in this Section. Customers who have not remitted required payments within sixty (60) days after the date of billing shall be notified on forms approved by District. Said forms shall contain a statement that services may be discontinued fifteen (15) days from the date of notice of payment if payment is not made before that time. Upon payment of the delinquent fees as set forth in Exhibit A, Contractor shall resume collection on the next regularly scheduled collection day. Customers whose service is being withheld shall nevertheless continue to be responsible for rates charged during the period in which service is withheld. Contractor shall be entitled to a reinstatement

fee in an amount approved by District for reinstating service after such customers' bills are brought current. Contractor may require that a resident or commercial business complete a credit/service agreement application prior to receiving service as a means of acknowledging the rules and guidelines for Solid Waste collection, and/or establishing credit. The fees levied for service by Contractor for Solid Waste collection shall constitute a civil debt and liability owing to District and/or Contractor from the person using or chargeable for such services and shall be collectible in any manner provided by law, including, without limitation, the reporting of delinquent payers to collection agencies or bureaus. District further agrees that it will coordinate with Contractor on an annual basis to collect delinquent charges on tax collection bills as provided by law."

7. **Amendment and Restatement of Section 9.3.4.** Section 9.3.4 of the Agreement is hereby amended and restated in its entirety as follows:

"9.3.4 Monthly reports shall be submitted within ten (10) calendar days after the end of the report month. Quarterly reports shall be submitted within fifteen (15) calendar days after the end of the quarter. Quarters end on November 30, February 28, May 31, and August 31. Notwithstanding the foregoing, the timing of report submissions may be modified or amended from time to time as mutually agreed by Contractor and District General Manager."

8. **Amendment and Restatement of Section 13.12.** The notice to the Contractor in Section 13.12 of the Agreement is hereby amended and restated in its entirety as follows:

"If to Contractor:
South County Sanitary Service
4388 Old Santa Fe Road
San Luis Obispo, CA 93401
Attention: District Manager"

9. **Counterparts.** This Amendment may be executed in one or more facsimile or original counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

10. **Ratification.** All terms and provisions of the Agreement not amended hereby, either expressly or by necessary implication, shall remain in full force and effect. From and after the date of this Amendment, all references to the term "Agreement" in this Amendment and in the original Agreement shall include the terms contained in this Amendment.

11. **Conflicting Provisions.** In the event of any conflict between the original terms of the Agreement and this Amendment, the terms of this Amendment shall prevail.

12. **Authorization.** Each Party executing this Amendment represents and warrants that it is duly authorized to cause this Amendment to be executed and delivered.

13. **Invalidation.** If this Amendment or its approval by the District is deemed invalid, in whole or in part, by any court of law, regulatory body, or any other entity, the District shall not



IN WITNESS WHEREOF, District and Contractor have executed this First Amendment to Amended and Restated Solid Waste Collection Franchise Agreement on the day and year first hereinabove set forth.


DISTRICT:

CONTRACTOR:

OCEANO COMMUNITY SERVICES
DISTRICT

SOUTH COUNTY SANITARY SERVICE,
INC.

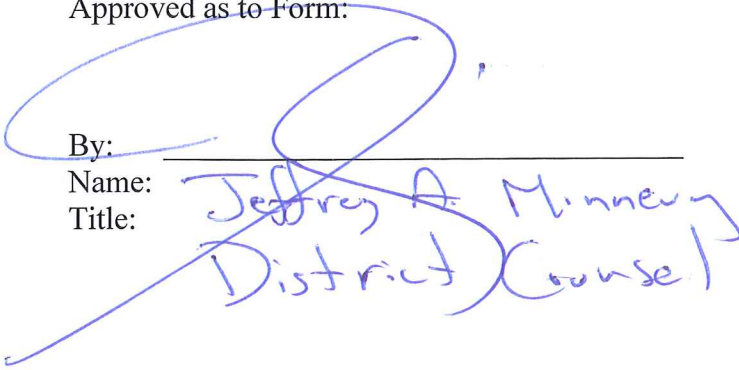
By: 
Name: MARY LUCEY
Title: PRESIDENT

By: 
Name: Patrick Fenton
Title: District Manager

Approved as to Content:

By: _____
Name: _____
Title: _____

Approved as to Form:

By: 
Name: Jeffrey A. Minney
Title: District Counsel