



CITY OF SAN JOSE TERM SHEET FOR RECYCLE PLUS FUTURE CONTRACT

This term sheet is a summary of the proposed terms, as of the date stated in the signature block, between GreenWaste Recovery, Inc. ("Contractor") and staff with the City of San José ("City") Environmental Services Department ("ESD") for a future solid waste services agreement that will replace Contractor's current agreement set to expire on June 30, 2021.

ESD will present this document to the San José City Council for consideration at its regularly scheduled meeting on October 16, 2018 (subject to change), with a request for direction from the City Council asking whether to continue negotiations with Contractor in accordance with this proposal. However, this term sheet is not binding on the City, and any modification, approval or acceptance of this term sheet by the City Council is not intended to nor will it form a contract or enforceable agreement with the City. This document only represents Contractor's intention to enter into an agreement with the City under these terms. Any agreement that incorporates all or part of these terms will be subject to further input from the City Council and acceptance by the City Council as required under the San José Municipal Code and City Charter. If properly executed, any future agreement will supersede this term sheet and the existing agreement with Contractor.

A. Agreement Term

The term of an agreement for solid waste services would be expected to begin on July 1, 2019 and end on June 30, 2036.

B. Reduce Per Capita Waste to Landfill

- 1) SB 1383 Compliance: Contractor is aware that SB 1383, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants, became law in 2016. Contractor will agree that passage of this law and the regulations required under it will not represent a Change in Law. The new agreement between the City and Contractor will provide for the program support and reporting required by SB 1383 and its regulations. If Contractor is required to provide significant changes to services in response to SB 1383 (e.g., updating container colors citywide), City and Contractor will meet to determine scope and appropriate compensation for such services. **Effective Date: July 1, 2019**

C. Ease of Use

- 2) Customer Satisfaction: Overall customer satisfaction is a high priority for Contractor now and in the future. The current agreement does not have an overall measurement of customer satisfaction. In conjunction with ESD, Contractor will develop a process for measuring overall customer satisfaction, and agrees to minimum performance standards and associated liquidated damages, incorporating those previously negotiated and included in Attachment A. Other customer service enhancements will include:

- a. Performance standards: To ensure an acceptable customer service experience for residents, Contractor, in conjunction with ESD, will develop performance standards to address contractor's call center and quality of collection. Contractor will also develop mechanisms, to ensure Contractor maintains minimal hold times, trained customer service representatives, customer self-service options, completion of collection services on the scheduled day without leaving behind toppled containers, and liquidated damages that are payable to the City for these topics. **Effective Date: July 1, 2019**

 - b. Online customer access: For no additional cost to the City, Contractor will implement online self-service features, such as access to service history, frequently asked questions (FAQ's), live chats, and email or web-based forms for customers to report services issues, make service requests, provide changes of address, or arrange for special pickup appointments; **Effective Date: July 1, 2021**

 - c. *My SanJose* App: Contractor will interface with the *MySanJose* App, with City supporting the front end, so that a customer can easily connect with hauler for customer service related questions and requests (including missed collections and replacement containers). City to fund appropriate app integration costs. **Effective Date: July 1, 2021**
- 3) Outreach: The City will be responsible for outreach activities associated with the Recycle Plus program. By October 1, 2019, and pending final City Council approval of related budget actions, the City intends to invest significant resources to these outreach activities. City will develop meaningful performance metrics, with input from all Recycle Plus contractors, to ensure the effectiveness of these outreach efforts. The Public Education and Outreach Plan (PEOP) and the Articles and Exhibits associated with the PEOP in the current agreement will not be included in any future agreement. This includes:

Article 12 – Additional Services

- 12.1 Public Education and Outreach Program (PEOP)
- 12.2 Annual Street Sweeping Calendars
- 12.3 Targeted Outreach
- 12.4 Alternative Material (used for ACSN)

Exhibit 10 – Data and Reporting Requirements

- IV Data
 - o B. Quarterly Reports (IV Community Outreach Summary)
 - o C. Annual Reports (IV Community Outreach Summary)

Exhibit 11 – Outreach

- A. Annual Outreach Plan
- B. Quarterly Coordination Meetings
- C. Additional Outreach Materials

Effective Date: July 1, 2019

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D. Competitive Rates

- 4) Compensation: Proposed new compensation rates are included in Attachment B: Contractor Pricing.
Effective Date: July 1, 2021
- 5) Annual Compensation Adjustment Methodology: The Refuse Rate Index (RRI) will be updated to indices published by the Bureau of Labor Statistics (BLS) that are specific to the San Francisco Bay Area. The following local indices will replace the current national indices:
- a. **Labor**
Employment Cost Index (NAICS)
Local: Series ID: CIU2010000000LKA
Not seasonally adjusted
Series Title: Total compensation for private industry workers in the San Jose-San Francisco-Oakland, CA CSA, 12-month percent change
Ownership: Private industry workers
Component: Total compensation
Occupation: All workers
Industry: All workers
Subcategory: All workers
Area: San Jose-San Francisco-Oakland, CA CSA
Periodicity: 12-month percent change

 - b. **Other Operating Expenses**
CPI-All Urban Consumers (Current Series)
Local: Series ID: CUURS49BSA0
Not Seasonally Adjusted
Series Title: All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted
Area: San Francisco-Oakland-Hayward, CA
Item: All items

In the event any index is discontinued, a successor index will be used. A successor index will be an index that is most equivalent to the discontinued index as recommended by the BLS.

In addition:

- RRI index changes will be calculated using annual calendar year averages, not December to December values, as in the current agreement.
- For the local Employment Cost Index (see above "a. Labor" component), the average of the four quarters for the calendar year will be used to calculate this index change, due to BLS only publishing 12-month percent changes (quarter over quarter) and not the actual indices.
- All labor-related costs (including wages, benefits, payroll taxes, workers compensation, pension, and health and welfare costs) included in Labor component.

Effective Date: July 1, 2021

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E. Other Terms and Conditions

- 6) Green Fleet: For next fleet replacement, scheduled to occur after July 1, 2021, all of Contractor’s fleet serving the City will be fueled by Compressed Natural Gas (CNG) or Alternative Fuel such as 100% renewable biodiesel currently used.
- 7) Street Sweeping services will continue until June 30, 2021 at the rates in the current agreement with Contractor. The City will have the sole option to extend Street Sweeping service through June 30, 2036, at the optional rates and terms outlined in the Contractor Pricing attachment, upon notice to Contractor prior to January 1, 2021. Public litter can service will continue as long as Street Sweeping services are provided.
- 8) A Living Wage requirement, as modified by the City Council (“Modified Living Wage” or “MLW”), will be incorporated into the Agreement. ESD’s recommended MLW methodology will be presented to the City Council at its regularly scheduled meeting on September 25, 2018 (subject to change). ESD is recommending that the City Council modify the City’s Living Wage Requirement to combine 45.71% of the San Jose Living Wage rate (currently \$20.57/hour with benefits) and 54.29% of the San José Minimum Wage Rate (currently \$13.50/hour). The City’s Living Wage Rate is adjusted every fiscal year by the City. City’s Minimum Wage will increase to \$15.00/hour on January 1, 2019. Annual adjustments to MLW wage rate (paid to workers) to be 0-5%, with no carryover (see example below). With this adjustment methodology, it is possible the MLW rate in any given year may be less than a rate calculated using then current Living Wage and Minimum Wage. If the City Council approves of this methodology, Contractor and City will include it in the future agreement. If the City later contracts with a new Recycle Plus facility or SJ GWR tonnages change by more than 20%, the City and Contractor will negotiate in good faith to modify the MLW methodology. Any MLW rate from a modified methodology will not be lower than the MLW rate at the time of establishing the modified methodology. Contractor will not be able to reduce any employee’s wage as a result of any modification to the MLW methodology. Any such modification to the MLW methodology and amendment to the agreement will require City Council approval.

Example of MLW rate change (numbers provided for illustrative purposes)

MLW Rate Effective 7/1/19	Calculated % Change for 7/1/20 Rate	% Change Applied to 7/1/20 Rate	MLW Rate Effective 7/1/20	Calculated % Change for 7/1/21 Rate	% Change Applied to 7/1/21 Rate	MLW Rate Effective 7/1/21
\$17.26	7%	5%	\$18.12	2.5%	2.5%	\$18.57

- 9) If requested by the City, Contractor will take over other Recycle Plus services from other providers as requested by City. If such a request occurs, City and Contractor will meet to determine appropriate compensation for such services.
- 10) All other terms and conditions in the existing agreement will not change except for technical adjustments where appropriate.

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F. Attachments:

- A. Customer Service Performance Standards**
- B. Contractor Pricing:** summary of contractor's pricing offer. Contractor to complete offer based on the effective dates included in this term sheet.
- C. Contractor Previous Pricing Offers:** The function of this attachment is to record Contractor's previous pricing offers and present final pricing offers.

By signing this document and completing the Contractor Pricing, Attachment B, Contractor represents that it has full authority to negotiate with the City and intends to enter into an agreement with the City under these terms.



GreenWaste Recovery, Inc. Authorized Signature

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Date

Frank Weigel

Printed Name

CO-CEO

Title

Attachment A: Customer Service Performance Standards

Overall customer satisfaction: 95% as determined by third-party survey

Quality of Performance of Contractor (additions to section 20.4 of current agreement):

Topic	Liquidated Damage Language	Amount	New/Updated
Call Center	Failure to Achieve Minimum Average Telephone Delay Time for Customer to Talk with a CSR	Minimum delay time: 180 seconds quarterly average. Delay time is time from first ring until customer speaks with CSR. >190 second avg, \$5,000/quarter	new
Call Center	Failure to Achieve Minimum Telephone Delay Time for Customer on Hold	Each call > 10 minutes total time on hold or call abandoned after 10 minutes on hold: not more than .3% of calls per quarter >=.3%, \$10,000/month	new
Call Center	Failure to Achieve Minimum Acceptable Score for Call Center Service Level Quality	\$1,000 for not meeting minimum score of third party quarterly assessment report Minimum Score >=80% per assessment/quarter	new
Customer Service	Failure to provide customer self-service option (website, email) as specified in this Agreement	\$1,000 per day	new
Missed Pick Ups	Failure to pick up material on scheduled day	Less than one (1) per four thousand (4,000) service opportunities. Monthly service opportunities calculated as average percent participation from the most recent route audit multiplied by total number of service units multiplied by 4.33. \$100 per incident over threshold	updated: replace route completion
Collection Quality	Failure to return empty carts to the point of collection, upright with lids closed and locks secured (if applicable), as specified in this Agreement. This penalty would be complaint-based and for situations with public health & safety implications (e.g., cart toppled, in the middle of the road)	\$100 per incident	new
Sweeping Quality	Incomplete or improper sweeping of a street	\$100 per block (i.e. cul-de-sac; for through streets, the part between two consecutive cross streets).	updated

Failure to meet above Customer Service standards by accumulating more than \$30,000 of Liquidated Damages in a calendar year and failure to meet 95% overall customer satisfaction determined by third-party survey results in City making a deduction from payment due to Contractor on or before March 1st following the end of the calendar year:

- Year One: -\$0.15/unit/month
- Second Consecutive Year: -\$0.30/unit/month
- Third Consecutive Year: -\$0.45/unit/month

Year One Example: \$0.15 x 214,000 units x 12 months = \$385,200

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Attachment B: Contractor Pricing

Services to be continued per 2011 contract terms, with changes detailed in this term sheet. Compensation and annual RRI adjustments will be at current 2011 contract terms through June 30, 2021 (except as noted below in Section B). Offered compensation for contracted services starting July 1, 2021, is detailed in Section B below. The pricing submitted will be used for final evaluation.

A. Adjustment of Proposed Rates from 2017-2018 Dollars to 2021-2022 Dollars

The rates given below are in 2017-2018 dollars and will be adjusted for each fiscal year until the effective date. The table below clarifies how the given rates will be adjusted for each fiscal year until the effective date.

	FY 2018-2019	FY 2019-2020	FY 2020-2021	FY 2021-2022
RRI Methodology	Current Agreement Methodology	New Proposed Methodology Included in this Term Sheet	New Proposed Methodology Included in this Term Sheet	New Proposed Methodology Included in this Term Sheet

B. Offered Rates for Services Beginning July 1, 2021 (except as noted below)

Item	Offer A With Street Sweeping service at City's option	Offer B With Street Sweeping service through 2036	Unit
MLW: MSW Processing additional cost per ton (SFD, MFD, City Facility) Rate effective July 1, 2019 (pending City Council approval) and would be adjusted in subsequent years by new proposed RRI methodology.	\$12.13	\$12.13	Per Ton
SFD MSW Processing: >70% diversion	\$89.65	\$89.65	Per Ton
SFD MSW Processing: <70% diversion	\$88.52	\$88.52	Per Ton
MFD MSW Processing: >70% diversion	\$89.65	\$89.65	Per Ton
MFD MSW Processing: <70% diversion	\$88.52	\$88.52	Per Ton
City Facility MSW Processing: >70% diversion	\$89.65	\$89.65	Per Ton
City Facility MSW Processing: <70% diversion	\$88.52	\$88.52	Per Ton
Yard Trimmings: SFD On-Street Yard Trimmings Collection	\$8.51	\$8.51	Loose-in-the-street Count
Yard Trimmings: Cart Yard Trimmings Collection	\$13.37	\$13.37	YT Carts

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<i>MFD On-Street Yard Trimmings Collection</i>	\$30.17	\$30.17	MFDs w/ Service Agreements
<i>MFD Holiday Tree Collection (Jan. Invoice Only)</i>	\$30.17	\$30.17	MFDs w/ Service Agreements
<i>Large Civic Collection & Pruning Collection</i>	\$110.44	\$110.44	Per Ton
<i>Small Civic Collection</i>	\$8.51	\$8.51	Per Unit
<i>Street Sweeping: Monthly Street Sweeping*</i>	\$66.03	\$62.83	Per Curb Mile
<i>Street Sweeping: Signed Street Sweeping Service (SSSS)*</i>	\$95.36	\$90.05	Per Curb Mile

*For Offer A, the City will have the sole option to extend Street Sweeping service through June 30, 2036, at the rates proposed, upon notice to contractor prior to January 1, 2021. For Offer B, Street Sweeping service would be included in the agreement through 2036 (service not at City option).

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Attachment C: Contractor Previous Pricing Offers

To record past offers during negotiations, previous offers are included below. The following rates are in **2017-2018 dollars, to be adjusted by RRI.**

Pricing offers:

- April Offer: Pricing submitted to City in April 2018, under different terms than this term sheet. New compensation rates effective July 1, 2021. Current RRI continues for entire term; options for: City outreach and customer service enhancements.

Item	4/13/2018 Offer	Unit
<i>MLW: MSW Processing additional cost per ton (SFD, MFD, City Facility)</i>	\$10.26*	Per Ton
<i>SFD MSW Processing: >70% diversion</i>	\$89.65	Per Ton
<i>MFD MSW Processing: >70% diversion</i>	\$89.65	Per Ton
<i>City Facility MSW Processing: >70% diversion</i>	\$89.65	Per Ton
<i>Yard Trimmings: SFD On-Street Yard Trimmings Collection</i>	\$8.51	Loose-in-the-street Count
<i>Yard Trimmings: Cart Yard Trimmings Collection</i>	\$13.37	YT Carts
<i>MFD On-Street Yard Trimmings Collection</i>	\$30.17	MFDs w/ Service Agreements
<i>MFD Holiday Tree Collection (Jan. Invoice Only)</i>	\$30.17	MFDs w/ Service Agreements
<i>Large Civic Collection & Pruning Collection</i>	\$0.00	Per Ton
<i>Small Civic Collection</i>	\$0.00	Per Unit
<i>Outreach Transitioned to City (SFD)</i>	-\$65,000	Annual Savings
<i>Outreach Transitioned to City (MFD)</i>	-\$17,000	Annual Savings
<i>Street Sweeping: Monthly Street Sweeping</i>	\$62.83	Per Curb Mile
<i>Street Sweeping: Signed Street Sweeping Service (SSSS)</i>	\$90.05	Per Curb Mile

*18-19 dollars

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