



TOWN OF FAIRFAX

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May 8, 2023

Kimberly Scheibly,
Executive Director
Zero Waste Marin
P.O. Box 4186
San Rafael, CA 94913-4186

Dear Kimberly:

CCR, Section 18981.2 allows a local jurisdiction to make arrangements with a public or private designee to carry out some of the MEMBER's SB 1383 responsibilities. One exception to this is that a private entity may not be designated to impose civil penalties. Per my authority as the City/ Town Manager of the Town of Fairfax, I Heather Abrams hereby authorize the Marin County Hazardous and Solid Waste Management Joint Powers Authority, also known as Zero Waste Marin (ZWM) to be a designee, under the condition that it agree to such, for the purposes of carrying out various responsibilities in connection with the MEMBER's compliance with the SB 1383 regulations. If ZWM agrees to accept that authority and designation on the terms below, please sign a copy of this letter, and return it to me.

On behalf of MEMBER, ZWM has agreed to implement the SB 1383 actions outlined in this letter. Specifics regarding programs and services provided by ZWM shall be detailed in an annual SB 1383 Work Plan reviewed and approved by the Board with its annual budget. These actions shall be reviewed at least annually and may be updated as the workplan is revised.

1. Technical Assistance

A. Education and Outreach

ZWM shall conduct the following education and outreach on behalf of the MEMBER. ZWM shall maintain and annually update on its website general information on how to comply with SB 1383 regulations, including the following. The following information shall be provided in English and Spanish. This may be in addition to similar information provided by the MEMBER and the haulers, on their websites.

- a) Information on organic waste generators' requirements to properly separate materials in appropriate containers as required by 14 CCR18985.1 (1)
- b) Information on methods for the prevention of organic waste generation, recycling organic waste on-site, sending organic waste to community composting, as required by 14 CCR18985.1 (2)
- c) Information regarding methane reduction benefits of reducing landfill disposal of organic waste, as required by 14 CCR18985.1 (3)
- d) Information related to the public health and safety and environmental impacts associated with the landfill disposal of organic waste, as required by 14 CCR18985.1 (5)
- e) Information regarding programs for the donation of edible food as required by 14 CCR18985.1 (6)
- f) Information regarding self-hauling requirements required by 14 CCR18985.1(7)
- g) ZWM's website shall include information on (a-f) above as required by 14 CCR 18985.1, as well as a list of haulers, organics processing facilities, and

food recovery organizations and services operating in the County as required by 14 CCR18985.2

B. Reporting

- a) ZWM shall develop and submit the organic waste recycling capacity Report required under 14 CCR18992.1 and the edible food capacity report under the prescribed schedule in 14 CCR18992.3. If insufficient organics processing or edible food processing capacity is identified, ZWM shall notify the MEMBER and work with the MEMBER to create an implementation plan to expand capacity as required by 14 CCR18992.1(d). ZWM shall conduct community outreach regarding locations being considered for new or expanded facilities, operations, or activities to seek feedback on the benefits and impacts that may be associated with new or expanded facilities, operations, or activities as required by 14 CCR18992.1 (c)(3).
- b) ZWM shall submit the MEMBER annual reports to CalRecycle required under 14 CCR 18994.1 and 18994.2. ZWM shall provide a draft copy of such reports to the MEMBER's representative for its review and approval at least 14 days prior to the applicable reporting deadlines set forth in these sections. Such reports are due on or before August 1 each year, starting on August 1, 2023, covering the entire previous calendar year.
- c) The MEMBER shall be responsible for requiring that their hauler and/or facility provide the needed information to ZWM for the annual report in a timely manner as requested by ZWM. The MEMBER shall request their haulers/facilities to input required information into a ZWM approved spreadsheet template or into an online database for ZWM to use/access on a schedule to be provided by ZWM, and to provide other needed information for annual reporting. The MEMBER shall also be responsible for providing the following information to ZWM using an approved spreadsheet template or into an online database for ZWM to use/access for the annual report, on a timely basis, as requested by ZWM, but no later than June 1 of each year:
 1. Number of projects subject to the Model Water Efficient Landscape Ordinance (MWELO) as required by 14 CCR18989.2
 2. Number of construction and demolition debris removal activities conducted in compliance with CALGreen as required by 14 CCR18989.1
 3. Tons of organic waste product (SB 1383 eligible) procured as required by 14 CCR 18993.1
 4. Documentation and labels of recycled content products purchased that meet the 30% post-consumer recycled content requirement as required by 14 CCR18993.3
 5. Education/outreach conducted, in addition to that provided by the hauler, if any
 6. Waivers issued by the MEMBER
 7. Complaints received and investigated
 - d) The MEMBER shall be responsible for maintaining their own required implementation record as required under 14 CCR 18995.2.
 - e) The MEMBER shall be responsible for maintaining Waiver evaluation/approval as required under 14 CCR 18984.11.
 - f) The MEMBER shall be responsible for a self-haul program and shall maintain a copy of requirements for self-haulers and any documentation required from self-haulers as required under 14 CCR 18988.3.

2. Recovered Organic Waste Product Procurement

- A. ZWM shall partner with the MEMBER and facilitate the procurement of all

- of their required organic waste product procurement target under SB 1383. ZWM shall work with MEMBER to identify sites for usage of compost allocation provided by franchise agreements as required by 14 CCR 18993.1.
- B. ZWM shall investigate opportunities for procurement projects for adoption by interested MEMBERS, including the potential to procure compost through a compost application broker, which may be used inside or outside of the County, and the potential to work with Marin Municipal Water District, via direct service provider agreements, to obtain credit for mulch purchased through their lawn to garden programs. ZWM shall also work with each MEMBER to coordinate potential uses of compost resulting from ZWM's current project with PlaceWorks.
 - C. ZWM shall investigate sites where compost and mulch could be applied in the County. ZWM shall investigate the potential for projects to be structured in such a way that could allow ZWM to procure the compost on behalf of each MEMBER. The MEMBER would then obtain procurement credit for a share of qualifying recovered organic waste products procured by ZWM. Shares would be allocated based on population. ZWM shall provide additional information on these projects as it becomes available.
 - D. ZWM anticipates being able to help the MEMBER fully meet their target through these efforts and MEMBER should also pursue their own efforts to procure organic waste products through activities such as compost giveaways and establishing community compost hubs and or direct service provider contracts to procure organic waste products on behalf of the MEMBER.
 - E. MEMBER shall be responsible for the purchase of recycled content paper and the maintenance of those records within the implementation record as required by 14 CCR 18993.3 (b & c)

3. Edible Food Recovery Program

A. ZWM shall coordinate and implement the SB 1383 Regulations' edible food recovery program requirements to which jurisdictions are subject under 14 CCR 18991.1–18991.2. The Parties agree that these requirements may be wholly or partially satisfied by agreement with the County or other third parties. ZWM's duties shall include but are not limited to identification of tier 1 and 2 generators, assessment of existing capacity for Edible Food recovery, inspection of commercial edible food generators for compliance, and enforcement.

a) Outreach to tier 1 and 2 generators.

ZWM shall identify a public or private entity to conduct outreach to tier 1 and 2 generators on their responsibilities to donate edible food and/or conduct electronic outreach to such generators.

b) Compliance monitoring and inspections of tier 1 and tier 2 generators.

ZWM shall identify a public or private entity to monitor compliance by conducting inspections of tier 1 generators beginning as soon as such an agreement is finalized, and tier 2 generators beginning January 1, 2024.

c) Enforcement of violations by tier 1 and 2 generators.

ZWM shall identify a public or private entity to draft notices of violation as appropriate, for final issuance by the MEMBER.

B. ZWM shall work to find a partner to implement the above activities as part of a Countywide edible food recovery program on behalf of its MEMBER. Such a partner could be the County Environmental Health Department, if they are amenable to an agreement or a private consultant, or both for different tasks. Agreements may take the form of an MOU or other written agreement that ZWM would help to

facilitate between the contracted party and the MEMBER for implementation of an inspection and enforcement program for commercial edible food generators and food recovery organizations and services.

4. Enforcement

A. ZWM shall function as a designated SB 1383 enforcement representative for the MEMBERS by performing the following actions:

- a) **Monitoring:** Monitoring compliance of commercial generators, commercial edible food generators, food recovery organizations and food recovery services. Monitoring will be conducted based on reports of potential non-compliance reported to ZWM by MEMBER, MEMBER'S solid waste hauler, anonymous complaint forms, and/or by the entity engaged by ZWM to conduct Edible Food Recovery Program services per Section 3. It is anticipated that reports of potential non-compliance will be based on inspections conducted in accordance with SB 1383 Regulations 14 CCR 18995.1 by MEMBER, MEMBER'S solid waste hauler, and/or by the entity engaged by ZWM to conduct Edible Food Recovery Program services per Section 3. ZWM may collaborate with MEMBER and/or a hauler in such inspections, where appropriate; and
- b) **Notices of Violation:** Issuing notice of violations to commercial generators, commercial edible food generators, haulers, food recovery organizations and food recovery services, based on reports provided by the entities conducting the inspections, including haulers, contractors and other public entities. These notices of violation may be drafted by a contracted third party or other public entity who has conducted such inspections identifying such violation. A copy of any notices of violations issued shall be provided to MEMBER within ten (10) working days of issuance and the notice of violation shall be documented in the implementation record. ZWM may collaborate with MEMBER and/or a hauler before issuance of a notice of violation where appropriate. It shall not be appropriate to collaborate with a hauler where it is the subject of the enforcement action. If the violator fails to comply with the notice of violation within the deadline set forth therein, ZWM shall refer the matter to MEMBER to impose penalties pursuant to the SB 1383 regulations and the MEMBER's own SB 1383 ordinance and the MEMBER shall function as the enforcement entity in that matter thereafter. One possible exception to this is enforcement of commercial edible food generator violations which may be conducted by the Department of Environmental Health under a yet to be agreed upon MOU for such services.
- c) **Emergency Circumstances – Waivers for MEMBER:** ZWM shall notify CalRecycle and apply for a waiver to landfill organics if MEMBER experiences a natural disaster, uses a recyclable materials or Organic Waste processing facility that has a temporary operational failure, or unforeseen operational restrictions have been imposed upon it by a regulatory MEMBER pursuant to 14 CCR 18984.13.
- d) MEMBER shall develop and maintain an anonymous complaint form and submittal process for submittal of complaints relating to SB 1383 violations as required by 14 CCR 18995.3. Valid complaints shall be submitted to ZWM for investigation and resolution. ZWM shall develop an anonymous complaint form portal that can be linked to on MEMBER websites for MEMBERS to consolidate the complaint submittal process.

The MEMBER understands that ZWM's acceptance of the MEMBER's authorization and performance of the tasks above is conditioned on the following:

1. MEMBER cooperation. The MEMBER shall cooperate in good faith with ZWM in administering implementation of the SB 1383 Regulations. This may include cooperating on the development of

processes for implementation activities, distribution of educational materials, and data exchange.

2. MEMBER responsibility. MEMBER shall be responsible for all other applicable SB 1383 requirements not expressly delegated to and accepted by ZWM as set forth herein, including those in the annual Work Plan. If the MEMBER requests that ZWM accept an additional SB 1383 regulatory responsibility or perform an additional requirement, the Parties shall meet and confer regarding the request and implementation, if ZWM is willing to do so. The MEMBER understands that in accordance with section 18981.2 (c) of the SB 1383 Regulations, the MEMBER remains ultimately responsible for compliance with the requirements of the SB1383 Regulations.
3. Sharing of information. Within thirty (30) days of a request by ZWM, or as soon thereafter as such information is available to MEMBER, the MEMBER shall share with ZWM all data, documents, contact information for commercial edible food generators within its jurisdiction, or any other information necessary for ZWM to carry out the responsibilities delegated to it in this MOU.
4. Staffing and funding; coordination of work; reimbursement of MEMBER for performance of work. In order for ZWM to carry out its responsibilities in connection with the administration and implementation of the SB 1383 Regulations as specified in this letter of designation, the parties agree that ZWM's costs associated with its responsibilities under this letter and the other letters of designation shall be funded through ZWM's budget and rate setting process, except as otherwise specified herein. These costs may include ZWM's cost to engage independent contractors to perform some, or all of the duties delegated to it herein and to develop agreements. Budget changes related to this letter shall be integrated into ZWM's regular budget process, as approved by the Board of Directors.
5. Liabilities and Penalties. For avoidance of doubt, the MEMBERS and ZWM hereby indicate that any liabilities and penalties arising from SB 1383 regulations requirements shall not be payable by ZWM or the County as ZWM's host MEMBER. The MEMBER is responsible for any failure to meet their obligations stated in SB 1383 Regulations.

Nothing in this Section shall prevent either the MEMBER or ZWM from challenging CalRecycle enforcement activities. In the event that the MEMBER or ZWM intends to challenge CalRecycle's imposition of a penalty imposed on the MEMBER, the MEMBER shall reasonably cooperate and assist ZWM in its legal challenge. Without limiting the generality of the foregoing, the MEMBER shall promptly share any notices of violation or accusation issued pursuant to 14 CCR 18997.5 that it receives related to any alleged violations.

6. The MEMBER or ZWM may terminate this agreement upon 180 days' notice in writing to the other party, at which time the parties shall consider negotiation of a new agreement if such negotiations have not already commenced.
7. The primary representatives of the parties for administration of this agreement are:

	MEMBER	ZWM
Primary Representative:	Heather Abrams Town Manager	Kimberly Scheibly Executive Director
Address:	142 Bolinas Rd Fairfax, CA 94930	1600 Los Gamos, Ste. 210 San Rafael, CA 94903
Telephone:	415-458-2345	415-577-6364
E-mail:	habrams@townoffairfax.org	KScheibly@marincounty.org

The name and contact information of primary representative may be updated by notice from one party to the other party. All communications by one party to another party shall be in writing and shall be effective upon (i) receipt of an e-mail confirming receipt of the initial communication if sent by e-mail, (ii) personal delivery or by express delivery or courier to the address set forth above, or (ii) when deposited in the U.S. Mail, first class, registered or certified mail, return receipt requested, to the address set forth above.


We look forward to working with the ZWM on this important undertaking.

Signed on behalf of MEMBER agency by,

Heather Abrams

[Print Name]

Zero Waste Marin Board Member



[Signature]

Zero Waste Marin Board Member

05/08/2023

Date

Accepted and agreed:



Kimberly Scheibly

Executive Director, Zero Waste Marin

May 8, 2023

Date