December 5, 2017

Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Assignment of West Marin Solid Waste Franchise Area No. 1 from Redwood Empire Disposal, Inc. to Recology Sonoma Marin

Dear Board Members:

RECOMMENDATIONS: Authorize President to execute Consent to Assignment Agreement.

SUMMARY: Redwood Empire Disposal, Inc. (RED), an affiliate of the Ratto Group, is requesting the County of Marin approve an assignment of the West Marin Franchise Agreement from Redwood Empire Disposal to Recology Sonoma Marin (Recology).

RED has the exclusive franchise with the County of Marin for refuse and recycling in West Marin for Franchise Area No. 1. This franchise area includes the West Marin coast area with the exception of Bolinas and Stinson Beach. RED has held this franchise with the County since 2008, when it took over the franchise from USA Waste/Shoreline Disposal.

In January 2017, RED confirmed with Department of Public Works (DPW) staff that they were contemplating a sale of the company to Recology. No further confirmation was provided to the County until August of this year. On July 31, 2017, RED submitted a rate application pursuant to the terms of the current Franchise Agreement. On August 18, 2017, the Ratto Group and Recology tendered a joint letter (Attachment 1) requesting approval from the County of Marin to assign the Franchise Agreement to Recology. On September 26, 2017, RED rescinded their July rate application.

Background on Recology
Recology is a 100% employee-owned company based in San Francisco with origins dating to the 1920s. More information on Recology is provided on their website (www.recology.com). Recology’s corporate mission statement (posted on their website) echoes Zero Waste Marin’s goals:

The Recology mission represents a fundamental shift from traditional waste management to resource recovery. Our vision at Recology is to create a world without waste by developing and discovering sustainable resource recovery practices that can be
implemented globally. This begins by building an exceptional Resource Ecosystem – one that both protects the environment and sustains the local community. A ‘closed loop’ ecosystem makes it possible for the communities Recology serves to achieve high landfill diversion and meet sustainability goals.

Evaluation of Recology’s Qualifications
Recology submitted a letter on August 25, 2017, (Attachment 2) which provides information as required in the Franchise Agreement regarding any proposed Assignee, including information on Recology’s finances, experience, similar work in the Bay Area, environmental compliance, and background on the proposed management team.

The Ratto Group is selling substantially all of its assets to Recology. The Ratto Group holds franchise agreements with most of the municipalities in Sonoma County, in addition to four in Marin County. Accordingly, these agencies share a similar need to evaluate Recology’s competency in order to consider assignment of their franchises to Recology. To do this efficiently, the County has utilized the services of R3 Consulting Group, Inc. (R3), a firm with expertise in the solid waste industry. The County has been able to benefit from R3’s comprehensive evaluation of Recology and its qualifications as they pertain to the multiple proposed assignments of franchise agreements in both Marin and Sonoma through a project commissioned by the City of Petaluma. A transmittal letter from R3 summarizing their findings and conclusions in evaluating Recology is provided in Attachment 3. R3’s Final Report is provided as Attachment 4.

R3 has summarized four key findings pertinent to Marin County Franchise Area No. 1:

1. Recology’s operational experience qualifies the company to provide services under the Franchise Agreement;

2. Recology’s financial resources appear sufficient to meet the obligations of the Franchise Agreement;

3. The County should anticipate that Recology will request rate increases in the near future; and

4. The County has general discretion regarding whether or not to consider approval of rate increases (depending on their timing and justification).

These findings are consistent with DPW staff’s expectation based on awareness of Recology’s work in the Bay Area and an expectation of upward rate pressure due to various factors including unionization, equipment upgrade needs, recyclables markets, and other factors. R3 and DPW staff have concluded that Recology is fully capable of carrying out the requirements of the Franchise Agreement and there is no basis to deny the assignment based on the Assignee’s qualifications. Furthermore, this situation provides a special opportunity to welcome a new solid waste service provider to West Marin who can help the community better transition toward Zero Waste Marin goals and provide improved customer service.
Board of Supervisors
December 5, 2017
Page 3 of 3

DPW has worked closely with County Counsel in preparing a Consent to Assignment Agreement (Agreement) provided as Attachment 5. The Agreement is the mechanism by which the County can approve the transfer of Franchise Area No. 1 to Recology. It also addresses the procedures related to near-term rate setting and protecting the County’s interests as they relate to impacts associated with the franchise assignment.

Section 3 of the Agreement addresses specifics of processing “special” rate applications for calendar years 2018 and 2019 that supersede the current Franchise Agreement provisions. For calendar year 2018, the rate application would use the San Francisco Bay Area All Consumers Consumer Price Index (CPI) for up to the prior three calendar years. The rate application for calendar year 2019 would utilize the “Refuse Rate Index” pursuant to the current Franchise Agreement and would allow utilization of one year of audited financial statements versus three years. These provisions are provided in the Agreement because any rate applications should be based on financial statements of the assignee.

Section 4 of the Agreement addresses issues related to a potential “cost-based” rate application that might exceed inflation and how that would be evaluated. The Agreement also includes a provision allowing the County to put Franchise Area No. 1 out to bid under certain circumstances. DPW staff would approach this new relationship with Recology as a partnership and seek to negotiate positive resolutions to future rate negotiations and changes to the Franchise Agreement. As part of future rate negotiations, there will also be opportunities to incorporate improvements and additional services desired by the communities served by Franchise Area No. 1.

FISCAL IMPACT: None at this time.

REVIEWED BY:  
[X] County Administrator  
[ ] Department of Finance  
[X] County Counsel  
[ ] Human Resources  

[X] N/A  
[ ] N/A  
[X] N/A  
[ ] N/A

Respectfully submitted,

[Signature]
Steve Devine
Program Manager

cc:  Redwood Empire Disposal
     Recology Sonoma Marin

Attachments:

1. 08/18/17 Letter from Ratto Group and Recology Requesting Assignment
2. 08/25/17 Letter from Recology
3. 11/13/17 Transmittal Letter for Final Report from R3 Consulting Group, Inc.
5. Consent to Assignment Agreement