

City of Arts & Innovation

City Council Memorandum

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TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: DECEMBER 18, 2018**

FROM: PUBLIC WORKS DEPARTMENT **WARDS: ALL**

SUBJECT: PUBLIC HEARING – PROPOSED RESIDENTIAL AND COMMERCIAL SOLID WASTE RATE INCREASE THROUGH JUNE 30, 2020; EIGHTH AMENDMENT TO TRANSFER SERVICES AGREEMENT WITH AGUA MANSA MRF, LLC. TO ADJUST WASTE PROCESSING COMPENSATION; RESOLUTION

ISSUES:

Conduct a public hearing pursuant to Proposition 218 to consider oral comments and written protests to the proposed solid waste rate increase; authorize an Eighth Amendment to the Transfer Services Agreement with Agua Mansa MRF, LLC to amend compensation for waste processing; and approve a resolution authorizing residential and commercial refuse rates from January 1, 2019 through June 30, 2020.

RECOMMENDATIONS:

That the City Council:

1. Conduct a public hearing to consider all oral comments and written protests to the proposed rate increase for residential and commercial refuse rates through June 30, 2020;
2. If a majority protest does not exist, adopt a resolution approving the residential and commercial rate structure from January 1, 2019 through June 30, 2020;
3. Authorize the Eighth Amendment to Transfer Services Agreement with Agua Mansa MRF, LLC to adjust waste processing compensation for extraordinary costs; and
4. Authorize the City Manager, or his designee, to execute the Eighth Amendment to Transfer Services Agreement with Agua Mansa MRF, LLC including making minor and non-substantive changes.

LEGISLATIVE HISTORY:

Solid waste collection and processing is regulated by the State of California under the oversight of CalRecycle, a department within the California Environmental Protection Agency. The Solid Waste industry began to transform in 1989 with the passage of AB 939. AB 939 established a full time waste board and set waste diversion goals to divert 50% of waste away from landfills through source reduction or recycling. The waste processing and disposal industry is becoming

increasingly regulated and one in which costs are increasing beyond inflation due to a variety of factors.

State and Federal Regulations:

SB 3 (Labor): As outlined in the Burrtec Waste Industries, Inc. request (Attachment 3) and corroborated in industry publications, one of the primary factors in rising trash costs is the implementation of Fair Wage legislation (wasteoptimize.com/trash-costs-increase/). SB 3, a statewide initiative passed in 2016, will result in a significant increase in the hourly wage market (to \$15 hour) by 2023. The first phase of the increases went into effect in January 2017. The trash processing industry relies heavily on minimum wage labor.

In addition, in 2016 the Affordable Care Act changed health insurance requirements for employers with 50 or more employees resulting in cost increases.

AB 341 (Recycling): AB 341 sets a goal of 75 percent recycling by 2020 with mandatory commercial recycling for businesses that generate more than 4 cubic yards of waste per week. This program requires additional outreach, increased route frequency and ongoing enforcement, now complicated by international policies impacting the recycling markets, which are detailed below.

SB 32, SB 1383 (Organics): SB 32 committed the state to a goal of reducing dangerous greenhouse gas emissions. SB 1383 addresses short-lived climate pollutants (methane emissions created by dairy, livestock and organic waste). Organic waste includes food and greenwaste. The bill has generated a need for substantial infrastructure investment to process organics to certain specifications, to reduce contamination, and a need to establish markets for compost and renewable fuels. There is no funding source associated with the regulation.

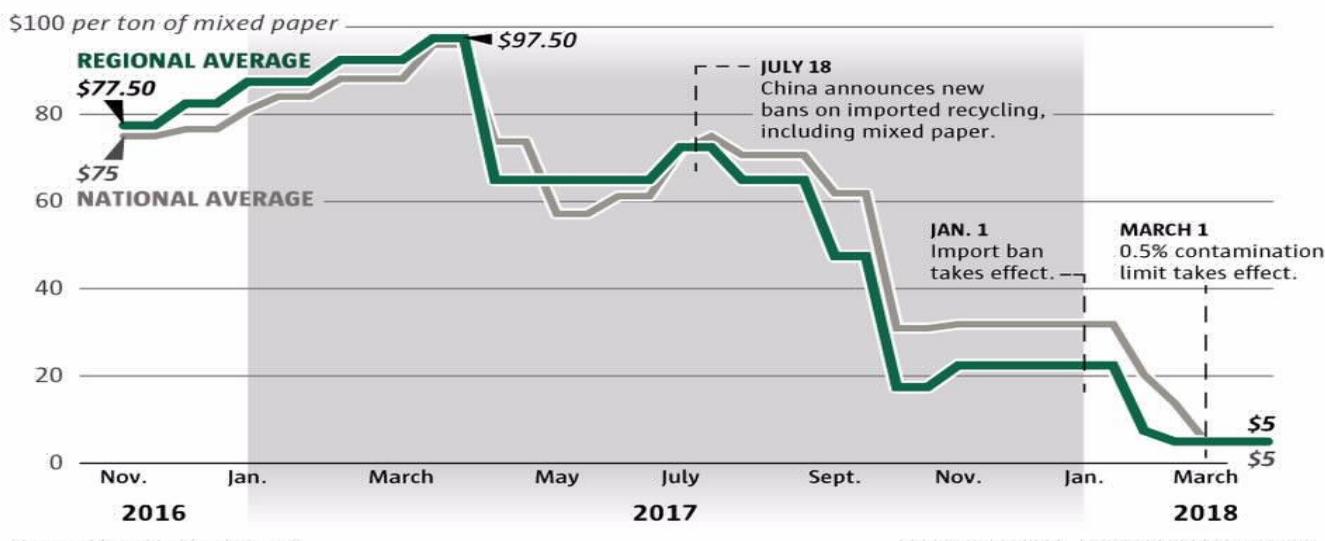
Foreign Policy:

'National Sword' (China Waste Ban) Explained: China has historically been the biggest buyer of U.S. recycling (newspapers, cardboard, plastic bottles and aluminum cans). However, Chinese authorities announced a country-wide ban of some grades of paper and plastic by the end of 2017 in response to high levels of 'contamination'. The ban, which formally went into effect January 1, 2018, limits acceptable recycling in recovered paper and plastic from 3% to no greater than 0.5% contamination. Contamination occurs when non-recyclable items are mixed in with the good recycling.

Riverside generates about 63,000 tons of recycling which would equate to a nearly **93% reduction in processing revenue**, which has historically been used to help stabilize rates. The chart below shows the market impact of China's ban industry wide; however, some recyclers may experience greater impacts.

China closes the door, prices crash

The average price paid to recyclers for a ton of mixed paper in the Pacific Northwest and across North America has plummeted in the last year.



Source: RecyclingMarkets.net

EMILY M. ENG / THE SEATTLE TIMES

China's ban has resulted in immediate impacts to waste sorting operations, including a need to add personnel to sort lines, increase inspections to reduce contamination, implement new education campaigns, and explore other domestic and international markets, many of which are being flooded by the global industry shift away from China and driving a commodity pricing freefall.

With the uncertainty of future markets, cities and waste companies are working to adapt to the new reality of scrap trading in China and moving toward market diversification and other markets; but that won't happen overnight.

Local Policy:

Riverside Municipal Code - Required Solid Waste Removal and Collection Periods

At the request of City Council, and in response to comments received during the public notice process expressing an interest in demand based pricing (less frequent collection days per month, or variable can size options), RMC Section 6.04.050 (c) and 6.04.070(A) essentially state that the City *shall* offer collection a minimum of one time per week. This provides some flexibility in collection and as a result, staff will explore the feasibility and cost for demand based user rate options in our five (5) year rate study and recommendations.

BACKGROUND:

The City of Riverside Public Works Department is responsible for providing high-quality and comprehensive solid waste (trash and recycling) management services to our residents and businesses with the goal of preserving the health, welfare and sustainability of our community and to meet state regulatory requirements. Riverside offers a variety of recycling programs and services to meet customer needs and state mandates. However, like many other cities throughout California and the U.S., the City of Riverside waste system is facing a variety of challenges.

In April 2018, Burrtec, as operator of the Agua Mansa Transfer Station (Transfer Station), requested an extraordinary rate adjustment for processing costs and a corresponding customer

increase for costs that are exceeding inflation due to external pressures from rising labor and regulatory costs. On September 12, 2018, the Public Works Department presented to the Finance Committee an overview of the waste system and proposal to adjust rates. On October 16, 2018, City Council authorized staff to prepare and mail a notice to rate payers, as required by Proposition 218.

Proposition 218 Procedural Compliance

Proposition 218 provides that prior to adoption of increases to solid waste rates, the City must provide written notice to all affected ratepayers informing them about the proposed rate increase for residential and commercial solid waste services and to set a public hearing for consideration no less than 45 days after mailing. The City must record receipt of all written protests to the proposed refuse rate service increases. Notices were mailed on October 26, 2018. The City also scheduled the notice to be published in the Press Enterprise on November 20 and 27, 2018. If the City receives written protests from a majority of the affected ratepayers, the City cannot implement the proposed rate increases. The City has provided the appropriate notice and the written protests will be tabulated at the close of the public hearing. If approved, the new rates will become effective January 1, 2019.

City Council also authorized staff to issue a Request for Proposals to further evaluate findings from the Public Works Performance Audit, review the rate structure and waste system as a whole, and provide recommendations for cost controls to meet regulatory requirements and provide service improvements. Staff anticipates the Request for Proposals will be posted in January 2019.

On November 27, 2018, staff presented the commercial rate proposal to the Greater Riverside Chambers of Commerce Economic Development Council.

DISCUSSION:

Public Works is recommending approval of an extraordinary increase request from Burrtec Waste Industries, Inc. (Burrtec) for waste processing and an 18 month solid waste rate plan through June 30, 2020 to provide fiscal stability to the City Refuse Fund and the contract haulers. This will also give staff enough time to retain a consultant to evaluate Audit findings and our waste system and to implement approved recommendations as outlined in the following timeline.

- January 2019: Effective date of new rates if approved; Public Works Performance Audit Findings Presentation to City Council; Issue a new Request for Proposals to retain a solid waste consultant to provide recommendations for a five (5) year financial rate plan from July 1, 2020 through June 30, 2025, service options (i.e. variable can rate) to achieve regulatory compliance, identify efficiencies, cost controls, and to maximize service delivery for customer satisfaction.
- Spring/Summer 2019: Consultant recommendations presented to Committee and City Council.
- Fall 2019: Solid waste system and five (5) year rate plan roll out discussions begin.
- July 1, 2020: Implementation of recommendations and rate plan through June 30, 2025.

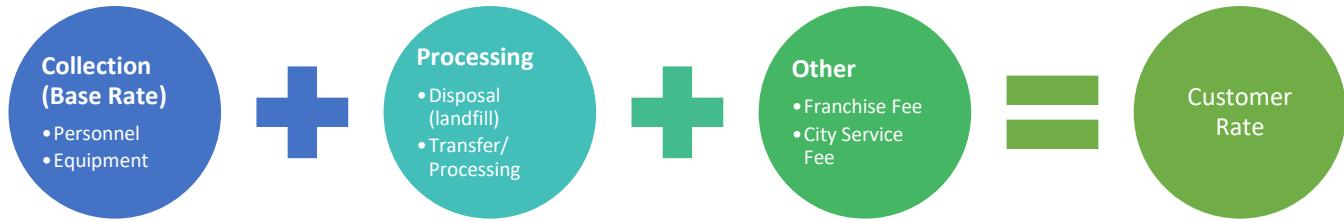
- November/December – Annual: Annual utility rate review before City Council with Riverside Public Utilities – Electric and Water and Public Works – Sewer and Refuse.

This report will provide: 1) an overview of commercial and residential rate components and adjustment factors; 2) external factors impacting trash rates; 3) an overview of actual costs; and 4) impacts if a rate adjustment is not approved.

1. Commercial and Residential Rate Structure

Solid waste services are made up of collection and processing. These two functions operate independently under separate contracts, but together contain the elements of the customer rate which include a *base rate, processing fee, disposal fee, franchise fee and city service fee*.

Each contract includes a provision to adjust compensation and rates by the Consumer Price Index (CPI). CPI is regulated by the Bureau of Labor Statistics (BLS), U.S. Department of Labor and is a commonly accepted economic indicator of inflationary price changes using a market basket of goods and services for a prescribed geographic area. Prior to 2018, Riverside fell within the Los Angeles-Riverside-Orange County Geographic Area. Beginning in 2018, the region was divided and Riverside is now part of the newly formed Riverside-San Bernardino-Ontario area. Due to the lack of historical data for the newly formed Riverside-San Bernardino-Ontario area, the CPI adjustment factor applied under this proposal is the Los Angeles-Riverside-Orange County geographic area as defined in the waste contracts. **Future adjustments will apply the new Riverside-San Bernardino-Ontario geographic area.**



Collection (Base Rate): Collection is the physical process of picking up the trash. The City has four collection contracts -- three for commercial service (Athens, Burrtec and CR&R) and one for residential service (Burrtec). The City also has an in-house crew that provides residential collection for two-thirds of City residents. City services are impacted by the same factors as the private haulers. The base rate is the cost of collection services, which is proposed to be adjusted by CPI.

Processing (Landfill and Transfer Processing Fees): The disposal (landfill) fee, which is set each year by the County of Riverside, is a pass-through cost under the terms of the City's agreement with the County, and is proposed to be adjusted by CPI. Additional increases are depending on final County of Riverside numbers to be released each May. The processing fee is set under a separate agreement between the City and Agua Mansa Transfer Station with Burrtec serving as the operator. This fee is proposed to be adjusted by CPI, plus a one-time adjustment to cover extraordinary costs related to state increases in minimum wages, state mandated health care coverages, new regulations requiring mandatory business recycling programs, and higher degrees of processing of organics (green and food waste).

Other (Franchise Fee and City Service Fee): Franchise fees were established by the City in the commercial and residential hauling agreements and are proposed to be adjusted by CPI and 15% of disposal respectively. Revenue generated by the franchise fee is deposited into the City

General Fund. Franchise fee revenue is estimated at \$3 million for both commercial and residential haulers and is intended to compensate the City for the use by a private entity (waste haulers) of certain City property, such as streets, in providing a utility service. City service fees include landfill closure maintenance (post Tequesquite Landfill closure remediation activity), AB 939 and other regulatory requirements, street sweeping and administrative costs and are proposed to be adjusted annually by CPI.

Customer Rates: Rates are based on the components outlined above and set on a per ton basis, which is then converted into customer service rates using estimated volumes per commodity (i.e. trash, recycling or greenwaste) and customer counts. The request at issue today is whether to approve the extraordinary increase for waste processing at the Transfer Station with a corresponding customer rate increase. The proposed rates provide fiscal stability to the Refuse Fund and to the contract haulers and maintain Riverside's competitive position with other cities (Attachment 5 – Rate Tables).

2. External Cost Factors – Domestic and International Policy and Regulation

A majority of the external cost pressures are related to legislative mandates as outlined in the Legislative History section in this report. While the State does provide some grants which the City uses to offset program costs (i.e. bottle and can recycling, illegal dumping and hazardous waste collection), most solid waste mandates are unfunded and require significant program implementation to meet requirements.

3. Actual Costs

For the past five years, refuse rates have been adjusted by CPI only. CPI allowances have generally not kept pace with actual operating costs as shown in the table below. Over a five year period, the City's actual expenditures have increased by an average of 5.4%, whereas CPI has increased on average of only 1.9%. Private hauler costs are proprietary and not publicly available. However, while these figures apply specifically to City operating expenditures, this is a trend experienced throughout the industry by both public and private haulers alike.

In Fiscal Years 15/16 and 16/17 the City deferred equipment purchases to reduce expenditures. Decisions like that reduce short term expenditures, but they have long-term operational impacts including higher maintenance costs and impacts to service reliability due to aging equipment. In FY 17/18, staff purchased equipment and incurred higher than average overtime rates due to staffing resource challenges. **Given the current regulatory and labor environment that impacts both public and private sector waste operations, the gap between future CPI allowances and actual costs are anticipated to be even greater than delineated here.**

Annual Expenditure Increases

City Costs	Actual FY14/15	Actual FY15/16	Actual FY16/17	Actual FY17/18	Budgeted FY18/19	5 Year Avg. Increase
Personnel	-2.15%	1.38%	9.15%	17.99%	0.32%	5.34%
Non-Personnel	12.60%	-1.59%	-0.30%	6.56%	10.10%	5.47%
Overall Expenditures	9%	-1%	2%	9%	8%	5.4%
CPI Allowance	1.14%	0.73%	2.03%	1.97%	3.61%	1.9%

4. Status Quo Operations

Should the proposed rate adjustments not be approved, the City will be unable to meet all regulatory requirements or to maintain status quo operations as shown in the fiscal impact section below. A delay in rate adjustments will likely result in further efficiency declines and a need to redirect resources from services such as illegal dumping mitigation, C.U.R.E., or homeless clean up support in order to fund regulatory requirements. In addition, the City is ultimately responsible for all regulatory compliance and risks increased exposure to liability and/or fines from the State of California for non-compliance.

FISCAL IMPACT:

The Refuse Fund is currently projected to closeout year 2 (FY 2019/20) with a negative fund balance of approximately \$500,000. These projections differ from the adopted Five Year Financial Plan as a result of actuals recorded for FY 2018 expenditures. This trend, if not addressed, will accelerate exponentially by FY 2022/23 due to anticipated cost increases related to the issues identified above. The following table illustrates the City's Refuse Fund in three scenarios: 1) status quo (no changes); 2); if the processing increase was approved without a corresponding rate increase; and 3) approval of the processing and customer rate adjustment (recommended).

Fund Balance Scenarios	FY18/19	FY19/20	FY20/21	FY21/22 ¹	FY22/23 ¹
1) Status Quo	\$2.6 mil	(\$0.5 mil)	(\$4.2 mil)	(\$8.4 mil)	(\$13.2 mil)
2) Processing Increase without corresponding rate increase	\$0.5 mil	(\$4.6 mil)	(\$10.3 mil)	(\$16.7 mil)	(\$23.6 mil)
3) Burrtec Request (CPI + Extraordinary) with est 2% CPI years FY20/21-22/23 with customer rate adjustment	\$3.0 mil	\$2.4 mil	\$1.7 mil	\$1.0 mil	\$0.2 mil

¹Fiscal Years 20/21 - 22/23 are estimates and may change based on future consultant recommendations.

The proposed rates are needed to cover general inflationary cost increases plus extraordinary increases to processing costs for the period through June 30, 2020. Revenues would generate sufficient revenue to maintain waste hauler operation and fiscal stability in the Refuse Fund until such time more in depth studies are completed. Franchise fees are projected to increase by approximately \$40,000 for residential and \$108,000 for commercial.

Prepared by: Kris Martinez, Public Works Director

Certified as to

availability of funds: Edward Enriquez, Interim Chief Financial Officer/Treasurer

Approved by: Rafael Guzman, Assistant City Manager

Approved as to form: Gary G. Geuss, City Attorney

Attachments:

1. Resolution
2. Burrtec's April 2018 Request for Rate Increase
3. Eighth Amendment to Transfer Services Agreement
4. Rate Tables
5. Presentation
6. Public Notice