



Program Strategy and Economic Study Report prepared by R3 Consulting Group, Inc.; and (2) request that staff return with information on (a) educational outreach for customers regarding waste collection rates; (b) waste collection service outsourcing success and failure comparisons of other cities; and (c) creation of districts for outsourcing both commercial and residential services and contract options to a future City Council Finance Committee meeting.

### **LEGISLATIVE HISTORY:**

AB 341 (Mandatory Commercial Recycling) and AB 1826 (Mandatory Organics Recycling) are existing regulations that mandate recycling programs. While the City of Riverside has some programs in place to improve compliance with AB 341 and has been working on AB 1826 compliance, CalRecycle, the state's regulatory agency responsible for waste oversight, placed the City on notice on November 27, 2017, and on August 24, 2018, informed the City that existing programs were insufficient for both regulations. Most recently, the City received a demand letter from CalRecycle placing the City on final notice to adopt a compliance plan by November 27, 2019 to come into full compliance with SB 341 and AB 1826 no later than July 1, 2020 (Attachment 1).

AB 1826 requires businesses that generate four cubic yards or more of commercial solid waste to recycle their organic waste after April 2016. This law also requires local jurisdictions to adopt and implement an organic waste recycling program to divert organic waste generated by businesses, including multi-family dwellings with five or more units. Organic waste includes food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food soiled paper waste. The law allowed a phased-in approach to meet the requirement over time, but the City needs to take additional immediate steps to be in compliance.

SB 1383 builds on California's efforts to reduce greenhouse gas emissions and air pollution throughout the state by establishing methane emissions reduction targets. The requirements of SB 1383 are currently in draft form, but are anticipated to be substantial.

Revenues are also being severely impacted by the "National Sword", a policy adopted by China in 2018. This policy established strict contamination thresholds that included bans on mixed paper and various other materials. This has resulted in a significant swing in recycling markets and severely impacts commodity sales so revenues no longer offset the cost of processing, transportation and residue disposal. 'Residue' is contaminated recycling or non-recyclable material (trash).

On October 17, 2019, the City received the attached request from Burrtec, the City's materials processor, to adjust the Agua Mansa Material Recovery Facility Recycling fee from a shared revenue model with the City to a cost to the City, which is estimated to be \$1.3 - \$1.5 million per year. On December 20, 2019, Burrtec submitted a supplemental request regarding recycling (attached). Since recycling is a state mandate, the City must maintain a recycling program.

### **BACKGROUND:**

On January 8, 2019, the City Council received an independent Public Works Department Performance Audit report which recommended the City retain a municipal solid waste consultant to compare City solid waste collection and sweeping services to contract services. On January 9, 2019, the Finance Committee requested that staff conduct analysis outlining the financial

impact between maintaining current City staffed services versus outsourcing residential waste collection and street sweeping functions.

On March 13, 2019, the Finance Committee received staff's report on the estimated fiscal impact of contracting those services. Staff's findings were that without the benefit of an in-depth look at City operations, including a review of contract services and terms in light of significant legislative changes, there was no apparent cost savings to the City by contracting services. Specifically, staff noted a significant amount of potential City costs, including unfunded CalPERS costs, would remain unless those costs were assumed by a private entity. Additionally, unless City Council reduced supporting staff throughout the City, there may be a cost to the City by outsourcing. Staff referred to the Audit recommendations and suggested retention of a consultant specializing in municipal solid waste services to do a thorough review of the waste system. The Finance Committee directed staff to return to Finance Committee with the consultant's findings.

On April 23, 2019, City Council authorized a Professional Consultant Services Agreement with R3 Consulting Group, Inc., (R3) to provide a Solid Waste and Recycling Program Strategy and Economic Study to review city solid waste collection operations, finances and contract services.

On November 13, 2019, the Finance Committee received the draft consultant report with comments and referred the matter to City Council.

## **DISCUSSION:**

R3's work included a comprehensive review of operating data, on-site meetings, operational observations, and an in-depth review of financial documents. R3's report addresses compliance mandates and cost controls including potential retained costs of outsourcing (CalPERS and potential City overhead) and procurement recommendations if outsourced. The report also provides recommendations for operating improvements and efficiencies should the City service be retained. Today's update incorporates additional information requested by the Finance Committee.

**Final Report Clarifications:** The following section provides updates and clarifications to the draft report presented to Finance Committee on November 13, 2019.

1. **Budget Figures and Fund Balance:** The draft report presented to Finance Committee was based on projections. The updated report includes actual figures through FY 2018/19 and updated budget figures from the FY 2019/20 Amended Budget approved by City Council on June 18, 2019.
2. **Private v. City Operating Cost Assumptions:** The final report clarifies the cost per account basis. Specifically, while the report shows the private hauler's cost per account is less than the City's, the updated report notes the analysis is based on current contract costs from a 20 year old bid. Despite periodic adjustments to those costs, they likely do not account for the full suite of factors that have impacted collection costs since that contract was executed. As such, the analysis is not likely representative of what a private hauler costs would be under today's conditions.
3. **AB 5:** After publishing the Finance Committee report, staff became aware of new legislation with potential PERS liability implications associated with City outsourcing of select services, including refuse collection. There was a brief discussion at the Committee, at which time staff indicated that due to the ambiguity of the law, staff was seeking guidance

from CalPERS and the League of California Cities. As of the time of publishing this report, CalPERS announced that it is following the *Borello* common law test to determine whether or not someone is an employee or independent contractor. This means AB 5 will not apply to CalPERS. Further, staff believes that the business-to-business exception found in Labor Code section 2750.3(e) likely applies to the contract with refuse haulers which means AB5 should not negatively affect the City’s current contract.

4. Procurement Options: The final report includes a recommendation to combine services (commercial and residential) in a single request for proposals. The services that would be included in any request for proposals is dependent upon final direction from City Council.
5. Service Models: At Finance Committee request, the final report includes a brief discussion and recommendations on service models (exclusive and districts).
6. Outsourcing Survey: The Finance Committee requested a survey of cities that have outsourced in recent years, and specifically whether any had gone back to a city serviced model. Because of the high cost of capital to enter (or re-enter) the waste collection business, we were unable to identify any City that had privatized and reverted to a City serviced model. It is important to note that the reasons a City elects to outsource may vary. Some California cities that still have a municipal waste collection operation include Redlands, Pomona, Burbank, San Diego (residential), Visalia, Tulare, and Sacramento. A common thread for cities that have retained city services is that they are older and established like Riverside.

California Cities that Have Outsourced\*

City Name	Result
Lincoln	Issued an RFP, but due to up-front payment requirements and ongoing franchise fee needs without a rate increase, they received no proposals and continued with municipal operations.
Hemet (CR&R)	Following an RFP process, awarded a new contract (replaced trucks, received upfront cash payment with ongoing payments, qualified workers were hired with the Company)
Colton (Republic)	Similar experience as Hemet
San Bernardino (Burrtec)	Outsourcing the result of bankruptcy. Under a new contract, received cash payment, qualified workers were hired with Company, approved rate increases up to approximately 5% per year.

Key Report Findings:

<b>Objective #1: Ensure the City is in compliance with existing State mandates through contract modification, Municipal Code updates, program implementation and supporting rates.</b>		
	<b>Page Reference</b>	
<b>Finding</b>	<b>Executive Summary</b>	<b>Report</b>
1. Address multiple legislative mandates, some of which the City is not in compliance with and at risk of state fines.	1,2,5,9-10	17-22

2. Amend commercial collection agreements and update Municipal Code to meet compliance, along with establishing an organics collection rate to cover program costs by no later than July 1, 2020.	1,5-6,9-10	41, 43-44
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**Objective #2: Evaluate City operating and private costs for waste collection and street sweeping services to identify whether outsourcing yields NET cost savings to the City. Should the City Council elect to retain City waste collection, include recommendations for operational improvements.**

Finding	Page Reference	
	Executive Summary	Report
1. The Division is doing a good job providing the required collection services given its current resources; 2. Overall Division management and staff appear to be dedicated and qualified, which is a prerequisite to a safe and effective collection operation; 3. The Division and the City’s Fleet Management Department appear to have a good working relationship, which is a prerequisite to a safe and effective collection operation.	3	-
4. If City services are retained, invest in the operation to maximize efficiency (route and service changes, fleet replacement)	3,4,7-9	23-25, 28-
5. If outsourced, some retained City costs may be transferred to the General Fund at a cost to the City. Other costs may be transferred to the private hauler/rate payer.	6	35-38
6. Cost per account comparison estimated based on current contract and likely not representative of private hauler costs would be under today’s conditions	6	34
7. Rates will need to increase regardless of who collects waste. Riverside rates have not kept pace with operating costs.	5,6,7	31-33
8. Potential savings from outsourcing depends on what costs remain with the City (net costs). <sup>1</sup>	6	35-38
9. Explore private hauler costs by issuing an RFP	7,9	41-42
10. Cost to maintain new fleet (with additional trucks), less \$ than current fleet	-	28

<sup>1</sup> The City of Riverside Finance Department estimates nearly \$1.4 million in City costs charged to the Refuse operation that could potentially shift to other City funds, including \$623,000 to the General Fund. Some costs would need to remain with the City for regulatory compliance oversight or possibly billing services for example. It remains unknown if a private hauler would assume the Refuse unfunded CalPers obligation (estimated at \$14 million) or if that would stay with the General Fund. If a private hauler assumed the liability they would need a way to recover those costs, likely through an extended contract term and rates.

**Objective #3: Prepare a longer-term waste management strategy to address future regulatory requirements, contracting needs, and procurement methods.**

Page Reference

Finding	Executive Summary	Report
1. A long term strategy rests on the strength of the waste hauling contract(s), a complete and effective Municipal Code and rates that support regulatory requirements and modern operations.	7-10	39-42
2. Existing agreements have been in place almost 20 years		
3. Options for City Council consideration include: a. Investing in the City’s operation and rebidding remaining services via a single RFP or divide into districts; a. Outsourcing residential collection and issuing a single Citywide Request for Proposals for all services (residential and commercial).	4,7,8,9	34-42

City staff has received interest from more than one hauler for residential collection opportunities and a proposal process provides maximum transparency.

The Chief Financial Officer concurs with this report.

**FISCAL IMPACT:**

There is no fiscal impact to the General Fund associated with receiving and providing input to the Solid Waste and Recycling Program Strategy and Economic Study report prepared by R3 Consulting Group, Inc. There may be fiscal impacts depending on direction from City Council and regulatory and contract changes will generate a need to increase service rates. Staff will return to City Council with proposed rate modifications in 2020.

Prepared by: Kris Martinez, Public Works Director  
 Certified as to availability of funds: Edward Enriquez, Chief Financial Officer/Treasurer  
 Approved by: Rafael Guzman, Assistant City Manager  
 Approved as to form: Gary G. Geuss, City Attorney

**Attachments:**

1. R3 Study – December 2019
2. CalRecycle October 10, 2019 Correspondence
3. Burrtec Residential Recycling Fee Adjustment Requests (October 17, 2019 and December 20, 2019)
4. City Presentation
5. Consultant Presentation