



*City of Arts & Innovation*

# City Council Memorandum

**TO: CITY COUNCIL MEMBERS**

**DATE: JUNE 16, 2020**

**FROM: PUBLIC WORKS DEPARTMENT**

**WARDS: ALL**

**SUBJECT: PROPOSED COMMERCIAL AND RESIDENTIAL TRASH RATE PLAN THROUGH JUNE 30, 2025; SIXTH AMENDMENT TO BURRTEC WASTE INDUSTRIES, INC. RESIDENTIAL SOLID WASTE COLLECTION AGREEMENT EXTENDING THE TERM THROUGH JUNE 30, 2022 WITH ONE, ONE YEAR OPTION TO EXTEND THROUGH JUNE 30, 2023; SIXTH AMENDMENT TO ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES, BURRTEC WASTE INDUSTRIES, INC., AND CR&R, INC. AGREEMENT FOR COMMERCIAL SOLID WASTE COLLECTION SERVICES TO INCLUDE STATE REQUIRED ORGANIC WASTE AND RECYCLING SERVICES; AND NINTH AMENDMENT TO AGREEMENT WITH AGUA MANSA MRF, LLC. FOR TRANSFER SERVICES TO ADD ORGANICS WASTE PROCESSING AND RECYCLING PROCESSING FEE MODIFICATIONS - RESOLUTIONS**

## **ISSUES:**

Receive a report and set a public hearing for proposed residential and commercial collection and processing rates through 2025; and approve resolutions authorizing waste collection and processing contract amendments to address state organics and recycling compliance mandates associated with AB 341, AB 1826 and SB 1383.

## **RECOMMENDATIONS:**

That the City Council:

1. Receive a report on proposed changes to commercial and residential trash service services;
2. Direct staff to prepare all documents necessary for public noticing and set a public hearing for solid waste rate increases recommended for both residential and commercial services through June 30, 2025 on a date at least 45 days after mailing said notice in accordance with Proposition 218;
3. Adopt a Resolution authorizing and approving the Sixth Amendment to Burrtec Waste Industries, Inc. Residential Collection Services Agreement extending the term through June 30, 2022, with a one-year option to extend through June 30, 2023;
4. Adopt a Resolution authorizing and approving a Sixth Amendment to Athens Services, Inc., Burrtec Waste Industries, Inc. and CR&R, Inc. Commercial Collection Services

Agreements to provide organics and recycling services in compliance with AB341, AB1826 and SB 1383;

5. Approve a Ninth Amendment to Agreement for Transfer Services with Agua Mansa MRF, LLC. to add organics waste processing services, revise recycling processing fees and update refuse and greenwaste processing fees by the consumer price index; and
6. Authorize the City Manager, or his designee, to execute the approved Amendments, including making minor and non-substantive changes.

## **LEGISLATIVE HISTORY:**

AB 939 was adopted in 2000 and began California's waste management transformation by setting a 50% waste reduction target through source reduction, recycling and composting for residential and commercial services.

AB 341 (Mandatory Commercial Recycling – "MCR") and AB 1826 (Mandatory Organics Recycling – "MORe") are existing regulations that mandate recycling programs and were established in 2012 and 2014 respectively. At its public meeting in January 2020, Cal Recycle, the state agency responsible for waste oversight, referred the City to its Jurisdictional Compliance Unit (JCU) to review the City's MCR and MORe programs requirements and to ensure that commercial covered generators (businesses that meet state thresholds for waste disposal) have the required recycling and organics recycling programs in place. If they do not, the City must be prepared to take necessary enforcement actions to ensure 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, which final program requirements are currently not finalized.

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 residual disposal. 'Residue' is contaminated recycling or non-recyclable material (trash). COVID-19 has exacerbated recycling commodity challenges with more markets now declining import of recycling and increased shipping challenges.

Covered generators and cities that are not in compliance with SB1383 requirements are subject to hefty fines ranging from \$500 to \$10,000 per day for failure to subscribe or enforce programs.

## **BACKGROUND:**

On January 14, 2020, City Council received a comprehensive report on a solid waste and recycling program strategy and economic study by R3 Consulting Group, Inc. which addressed the City's own residential solid waste operation, a review of our commercial contracts, compliance with state mandated programs as well as a preliminary rate analysis to support operations and required programs.

City Council directed staff to implement a variety of changes to the solid waste program with status updates shown in the table below:

| City Council Direction   | Status                | Comments  |
|--|-----------------------|---|
| Retain city collection staff servicing two-thirds of residential customers   | Completed             | City Council approved January 14, 2020. City operational improvements underway; some recommendations are contingent upon labor agreements and rates |
| Modify the City's Municipal Code to ensure compliance with state regulations mentioned above   | Completed             | City Council approved January 14, 2020. Next step - 6 month education campaign working with haulers, Chambers of Commerce, CalRecycle               |
| Issue a request for proposals for the remaining one-third of residential customers serviced by Burrtec Waste Industries, Inc. and for all commercial collection services | Ongoing and on track. | City Council authorized an amendment to R3 consulting agreement on March 17, 2020 to begin drafting RFP documents                                   |
| Modify existing contracts to align contract expiration and ensure compliance with state regulations  | Pending               | These discussions were delayed as a result of the COVID-19 pandemic.  |
| Return with residential and commercial rate plans to support operational improvements and programs to ensure regulatory compliance                                       | Pending               | These discussions were delayed as a result of the COVID-19 pandemic.  |

In light of the unprecedented impacts of the COVID-19 pandemic, staff has reached out to CalRecycle to request relief for some diversion requirements. However, absent a change in direction from the State, the City must be prepared to adopt and implement required programs.

## **DISCUSSION:**

Since the January 14, 2020 City Council meeting, City staff, R3 Consulting and our waste collection and waste processing partners have been working to ensure the objectives outlined by City Council are met and in alignment with state mandates. This work involves four primary components, two of which (Municipal Code changes and City service operational improvements) are completed or underway. The other two areas are the focus of this report: 1) contract modifications; and 2) a proposed rate plan.

### **1. Contract Modifications**

Riverside's waste system is comprised of collection and processing/disposal. Collection is the physical process of picking up trash at the curb and transporting waste to a transfer station for processing and sorting. Riverside trash, greenwaste and recycling collection is provided through a combination of City crews and contract services. Commercial collection is provided by three

contractors (Athens, Burrtec and CR&R) as approved by City Council in 2001. Residential collection is provided by City crews that service two-thirds of City residents and by Burrtec Waste which collects waste for the remaining one-third of City residents.

The City needs to amend the following agreements:

- a) Residential: Burrtec's residential collection agreement expires June 30, 2020. Staff is recommending a two-year extension through June 30, 2022, with one, one-year option to extend for a final expiration date of June 30, 2023. This will align the residential contract with the three commercial contracts.
- b) Commercial: All three commercial haulers operate under the same franchise agreement terms. Staff is proposing an amendment to their agreements to align service requirements with state requirements recently adopted by Ordinance – namely, the haulers will be required to subscribe businesses to organics collection and recycling collection services and businesses that fall within the state thresholds will be required to subscribe and pay for these services in accordance with rates adopted by City Council. These contracts will expire June 30, 2023.
- c) Processing: Any waste material (trash, recycling, green or food waste) that is collected must be processed to prepare it for disposal or reuse. The City has a long-standing agreement with Burrtec Waste Industries, Inc. to operate the Agua Mansa Transfer Material Recovery Facility (also known as a "MRF" or "Transfer Facility"). This contract expires on March 30, 2029. As the state mandates new programs, the MRF agreement must also be modified from time to time. Trash and greenwaste rates are proposed to adjust by the consumer price index as prescribed under the current contract terms. Staff is proposing an amendment to add organics processing, along with updating processing rates for recycling. It is important to note that recycling has changed significantly as a result of the National Sword mentioned above. Since recycling is a state mandated program, the City must maintain a recycling program.

As a result, on October 17, 2019, December 20, 2019 and February 28, 2020 the City received the attached requests from Burrtec to adjust processing fees, including a request to adjust the Recycling fee from a shared revenue model with the City to one that is a cost to the City, a cost estimated to be \$1.3 – \$1.5 million per year for residential recycling alone. The amended recycling processing provision provides for an annual review to account for commodity elasticity.

## 2. Rates

City Council approves customer rates for both commercial and residential refuse services. Rates are made up of multiple components: a base rate (collection), processing/disposal (landfill and transfer processing fees), and Other (Franchise and City Compliance Fees). Historically rate components have increased by inflation (the Consumer Price Index or "CPI") which is calculated into the customer rate. The collection and processing contracts permit extraordinary increases or adjustments not reflected in CPI (i.e. those associated with new regulatory requirements and programs or changing market conditions like recycling) which has occurred on a very limited basis, mostly related to changes in processing. Extraordinary adjustments require City Council approval. A short term (18-month) rate adjustment was approved by City Council in December 2018. No rate increases are approved as of July 1, 2020.

In staff's report to City Council in January of 2020, the consultant indicated that rates would need to be adjusted by noticeable amounts for both residential and commercial services to accomplish three primary objectives: 1) to adequately fund the City's municipal operations for two-thirds of residential customers; 2) to address state mandates, including the increasing cost of recycling on the residential side and to ensure mandated programs are provided to the degree required by the state for commercial organics and recycling; and 3) to 'catch-up' on operational cost increases not covered by more than 10 years of mostly CPI only increases.

### Commercial Services:

Currently, the City sets the rate for commercial collection for trash and greenwaste. Recycling rates have historically been set by the haulers and for years there was no cost to businesses for recycling services since the revenue generated supported the operation. That is no longer the case. In light of newer regulations, the agreements need to be modified to address recycling market declines and establish rates for organics collection services.

The vast majority of waste management costs are associated with the cost of collection (i.e., getting the collection vehicle to the account to collect the material). The size of the collection container and associated amount of material collected has a relatively small impact on the overall cost. Given the fact that collection services account for the vast majority of total solid waste management costs, and that many of the City's commercial accounts will need to subscribe to at least one (1) if not two (2) **additional** services to comply with the state's MCR and MORE regulations, it is not unreasonable to expect that their overall monthly rate will increase proportionally. The significant rate impact to MCR and MORE covered generators (businesses) is further amplified by the fact that current commercial rates in the City are relatively low compared to rates within the region and like residential services CPI increases have not kept pace with actual costs (increasing minimum wage, vehicle requirements, and increasing operational processes due to newer regulations).

Currently, commercial accounts that subscribe to more than 4 yards of weekly service (solid waste, recycling and organics) are considered MCR covered generators and must subscribe to commercial recycling services. Commercial accounts that subscribe to more than 2 yards of weekly service are considered MORE covered generators and must subscribe to commercial organics collection services. On January 2, 2022, when SB 1383 becomes effective, commercial accounts that subscribe to less than 2 yards of weekly service also become MORE covered generators, although waivers are available for accounts that generate minor quantities of organics.

To support efforts to comply with the MCR and MORE requirements, the City requested that each of the three commercial franchised haulers submit proposed commercial solid waste, recycling and organic recycling service rates. In all cases, proposed solid waste rates were higher than the current solid waste rates, and the proposed commercial organics rates were higher than the proposed commercial solid waste rates. The commercial recycling rates were, in most cases, roughly equivalent to the proposed solid waste rates. Based on these proposed rates, monthly commercial rates would increase significantly for all commercial covered generators (e.g. on the order of 50% to 100% for most covered generators).

### Options for Setting Commercial Service Rates:

As noted at staff's presentation to the Riverside Chambers of Commerce Economic Development Committee meeting in December 2019 and at the January 2020 workshop before City Council, there are going to be large commercial rate increases one way or another. The question is how

the City should proceed with respect to setting commercial rates. There were a number of options available; however, staff is recommending Scenario 1 below also highlighted in the table below:

**Scenario 1:** Allow extraordinary adjustments to trash service rates, and CPI adjustments to existing greenwaste rates. In addition, establish new maximum recycling and organic rates in relation to hauler proposals and related to state program requirements.

Staff is recommending this scenario because commercial operations face the same challenge as the residential operation does – CPI increases have not kept pace with actual operating costs driven by rising state labor costs and regulations. This option will begin to correct the structural deficit for contract operators and establishes service rates for state required programs.

**Scenario 2:** CPI only adjustments to currently approved rates (trash and greenwaste) and setting new maximum recycling and organic rates in relation to hauler proposals submitted this Spring. This does not provide sufficient rates to support base services and state mandated requirements.

**Scenario 3:** Establish a “bundled” minimum service rate for all three services (solid waste service level + (at a minimum) 96-gallon recycling + 64-gallon organics), set maximum rates for service levels higher than these minimum service levels. This rate structure aligns more closely with what CalRecycle is advocating; but in the short term it requires more study.

#### Sample Rates:

The table below provides a projection of the monthly rate impact to ‘standard’ accounts under staff’s recommended Scenario 1, with service levels ranging from 2 to 4 yards of waste with collection one time per week.

| Covered Generator Waste Volume (by Yard) | 2019 Current Trash Rate | 2020 Proposed Trash Rate (CPI+1%) | 2020 Recycling (New) – 95 gallon minimum | 2020 Organics (New) – 65 gallon minimum | New Total | Change \$ | Change % |
|--|-------------------------|-----------------------------------|--|---|-----------|-----------|----------|
| 2  | \$83.92                 | \$87.79                           | n/a                                      | \$81.75                                 | \$169.54  | \$85.62   | 102.03%  |
| 3  | \$118.20                | \$123.65                          | n/a                                      | \$81.75                                 | \$205.40  | \$87.20   | 73.77%   |
| 4  | \$150.83                | \$157.79                          | \$53.32                                  | \$81.75                                 | \$292.86  | \$142.03  | 94.16%   |

These rates are based on MCR and MORE covered generator limits that subscribe to the minimum service volume. The examples shown here do not account for any savings commercial accounts may realize by reducing (downsizing) their weekly solid waste (trash) service volumes due to the separation of recycling and organics from their waste stream. The proposed rate plan includes the following adjustments through June 30, 2025.

- July 2021, refuse service rates are proposed to adjust by CPI+2%. Other commodities will adjust by CPI.
- July 2022 refuse service rates would adjust by CPI+1%. Other commodities will adjust by CPI.
- July 2023-2025, all service rates will adjust by CPI.

#### Residential Service Rates:

Proposed rates for residential services were established in support of City Council January 14, 2020 direction to invest in the City municipal waste collection operation, including the addition of new equipment (which will reduce maintenance costs in the long-term), add one additional recycling and greenwaste route, and address the costs associated with the recycling market collapse for all residential recycling services.

Below are 3 rate scenarios that will accomplish City objectives, state mandates and the change in the recycling market.

| MONTHLY RATE      |              |            |            |            |            |            |
|-------------------|--------------|------------|------------|------------|------------|------------|
|                   | Current Rate | FY 2020/21 | FY 2021/22 | FY 2022/23 | FY 2023/24 | FY 2024/25 |
| <b>Scenario 1</b> | \$26.85      | \$30.92    | \$31.85    | \$32.80    | \$33.78    | \$34.80    |
| <b>Scenario 2</b> | \$26.85      | \$28.89    | \$31.09    | \$33.46    | \$34.46    | \$35.50    |
| <b>Scenario 3</b> | \$26.85      | \$28.78    | \$30.84    | \$33.05    | \$34.37    | \$35.75    |

| INCREMENTAL MONTHLY RATE INCREASE |            |            |            |            |            |                    |
|-----------------------------------|------------|------------|------------|------------|------------|--------------------|
|                                   | FY 2020/21 | FY 2021/22 | FY 2022/23 | FY 2023/24 | FY 2024/25 | 5 Yr Rate Increase |
| <b>Scenario 1</b>                 | \$4.07     | \$0.93     | \$0.96     | \$0.98     | \$1.01     | \$7.11             |
| <b>Scenario 2</b>                 | \$2.04     | \$2.20     | \$2.37     | \$1.00     | \$1.03     | \$8.64             |
| <b>Scenario 3</b>                 | \$1.93     | \$2.06     | \$2.21     | \$1.32     | \$1.37     | \$8.89             |

**Staff is recommending Scenario 1.** Even though the initial rate increase is more per month than the other two, the increase is still minimal, it provides immediate fund stability, the total overall rate increase is less, and it provides sufficient working capital over the long term.

### **FISCAL IMPACT:**

During the January 14, 2020 City Council meeting, the Refuse Fund was projected to closeout FY 2019/20 operating at a deficit of \$(4,133,434), which was projected to leave a remaining fund balance of approximately \$4,192,672. Recent projections that include preliminary revenue impacts from COVID-19 related circumstances indicate that the Refuse Fund is projected to closeout FY 2019/20 operating at a deficit of \$(4,365,434), with a remaining fund balance of approximately \$3,960,672. This trend, if not addressed, will accelerate exponentially by FY 2022/23 due to anticipated cost increases related to the issues identified above.

The approval of any of the three proposed residential scenarios and the proposed commercial collection rates through 2025 would generate sufficient revenue to maintain waste hauler operations and fiscal stability in the Refuse Fund, as illustrated in the table below.

| Fund Balance Scenarios –<br>FY Ending Working Capital |           |           |           |           |           |
|---|-----------|-----------|-----------|-----------|-----------|
|   | FY20/21   | FY21/22   | FY22/23   | FY23/24   | FY24/25   |
| Scenario 1  | \$4.2 mil | \$4.7 mil | \$5.5 mil | \$6.4 mil | \$7.2 mil |
| Scenario 2  | \$2.4 mil | \$2.2 mil | \$3.7 mil | \$5.1 mil | \$6.5 mil |
| Scenario 3  | \$2.3 mil | \$1.9 mil | \$3.0 mil | \$4.3 mil | \$6.0 mil |

Residential and commercial refuse rates include franchise fees, which are payments to the City's

General Fund 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. Franchise fee payments to the City in FY 2019/20 are projected to come in at approximately \$3,344,738 for both residential and commercial waste haulers with FY 2020/21 revenues increasing by CPI, or about 3 percent.

The total fiscal impact of the Sixth Amendment to Residential Collection Services is approximately \$5,290,000. The fiscal impact of the Ninth Amendment to Agreement for Transfer Services is approximately \$6,563,390 which includes additional processing costs for recycling costs associated with market changes. The funds are included in the proposed FY 2020/21 Budget in the Solid Waste Division Private Hauler Account 4130300-459014 and Refuse/Disposal Fees Accounts 4130100-422700 & 4130400-422700. Appropriations for future fiscal years will be included in the Department's budget submissions for those fiscal years to be presented to the City Council for approval.

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. Presentation
2. CalRecycle Jurisdiction Compliance Unit Referral Letter
3. Burrtec Residential Recycling Fee Adjustment Requests (October 17, 2019, December 20, 2019)
4. February 28, 2020 Agua Mansa Material Recovery Facility Rate Adjustment Letter
5. Sixth Amendment to Burrtec Waste Industries, Inc. Residential Collection Agreement
6. Sixth Amendment to Athens, Burrtec and CR&R, Inc. Commercial Collection Agreements
7. Ninth Amendment to Agreement for Transfer Services
8. Resolutions