



Staff Report

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**File #:** 23-0907

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**REQUEST FOR CITY COUNCIL ACTION**

**DATE:** 11/15/2023

**TO:** Honorable Mayor and City Council Members

**FROM:** Utilities Department

**SUBJECT:**

PUBLIC HEARING FOR CITY COUNCIL CONSIDERATION OF RESOLUTION APPROVING THE SECOND AMENDED AND RESTATED FRANCHISE AGREEMENT WITH USA WASTE OF CALIFORNIA, INC., AND RATE ADJUSTMENTS FOR ADDITIONAL SOLID WASTE SERVICES

**EXECUTIVE SUMMARY:**

This staff report asks the City Council to consider a Resolution approving the Second Amended and Restated Franchise Agreement with USA Waste of California, Inc., to provide mandatory services required by Senate Bill 1383 and adjustments to the rate for the added or enhanced solid waste services negotiated in this new agreement.

**RECOMMENDED ACTION:**

**That the City Council:**

- a. Hold a public hearing regarding the proposed rate adjustments for solid waste services for residential and commercial customers.
- b. Adopt Resolution No. 2023-115, approving the Second and Restated Franchise Agreement with USA Waste of California, Inc., for solid waste handling services and rate adjustments for additional solid waste services.
- c. Authorize an estimated revenue increase in the amount of \$240,000 in the General Fund (110) and \$100,000 in the Residential Refuse and Recycling Fund (260).

**BACKGROUND & HISTORY:**

In 2016, the State adopted Senate Bill 1383 (SB 1383), which requires all cities in the State to significantly reduce the amount of organic waste going to landfills. SB 1383 places significant new requirements on jurisdictions to ensure all generators recycle organic materials (including cardboard and paper), monitor and minimize contamination, reduce edible food waste, procure organic-content

products, conduct outreach, and monitor and report on waste generator compliance. SB 1383 also requires cities to conduct enforcement actions on non-compliant waste generators. The regulations went into effect on January 1, 2022. To comply with this law, the City is required to modify the services and terms of its agreement with USA Waste of California, Inc., (WM) so that many of the requirements of SB 1383 can be delegated to WM. Cities that do not comply with SB 1383 are subject to significant fines from the Department of Resources Recycling and Recovery (CalRecycle).

The City originally entered into a franchise agreement with WM in 1983 and it was amended and restated for the first time in 2006. The agreement had a rolling five-year renewal extension that could be terminated after providing notice. The City issued a notice of cancellation for the automatic five-year renewal in May 2021, terminating the 2006 agreement on November 1, 2026. After reviewing and analyzing options, the City Council directed staff to negotiate solid waste services compliant with SB 1383 requirements with WM and include additional service enhancements that would benefit the community with the lowest financial impact possible.

**ANALYSIS:**

City staff began negotiations for services with WM at the end of 2021. The amended and restated agreement with WM includes all the services in the current agreement and added new services that will enable the City to comply with SB 1383. These new services include residential organics collection (including food waste in the green container), contamination monitoring, enhanced education and outreach, procurement of recovered organic waste product assistance, and reporting and monitoring.

The new agreement also includes certain contract enhancements such as an annual contribution of \$200,000 by WM towards City beautification, enhanced multi-family bulky item collection, dedicated WM staff for the City to provide education and outreach activities, one additional special clean up event, and mulch & compost giveaways. As part of the new agreement, the City will also be transferring the responsibility of billing residential solid waste customers but retain the \$0.50 fee per residential unit for SB 1383 program administration. The annual consumer price index utilized for annual rate adjustments was modified to be the All-Urban Consumers, Riverside-San Bernardino-Ontario (CUURS49CSA0) as published by the Bureau of Labor Statistics. The new term of the amended agreement extends through November 1, 2036.

In addition to services, the amended agreement includes enhancements for monitoring and ensuring that the hauler is meeting its obligations of the agreement through scheduled audits of records, routes, and overall performance in addition to allowing the City to seek liquidated damages in the event that the hauler is not meeting specific performance standards.

During the timeframe that negotiations were taking place (2022 and 2023), WM opted to not exercise their inflationary cost adjustments for services and only adjust for the pass-through disposal cost in October 2022. Since then, WM rates haven't been adjusted for pass-through disposal costs or inflation. Under the terms of the new agreement, residential customer rates will be increased approximately 7.91% effective January 1, 2024. This increase reflects: 1) A pass-through charge of \$0.61 for disposal, 2) Inflationary adjustment of \$0.90 for services, and 3) An additional \$0.60 per home for services related to SB1383. Commercial rates will be adjusted by approximately 5.5% to reflect the annual inflationary adjustments for services and pass-through costs for disposal.

The new rates included in the new agreement are subject to the requirements of Proposition 218.

As a result, the City sent notifications to all its residents and businesses on September 29, 2023, at least 45 days prior to the public hearing, of its intent to adjust customer rates. If the proposed rates and amended agreement are approved, they will go into effect on January 1, 2024, along with the new SB 1383 compliant services. The rates will adjust again in July 2024, when they are scheduled for the annual inflation adjustment.

**Services in the New Agreement include:**

**Table 1 - Overview of Current Services**

- Three-cart residential collection system
- On-call bulky waste (3 on-call pickups/yr.)
- Commercial and multi-family bins
- Commercial recycling and organics
- Permanent roll off
- No-charge: City facilities; special events

**Table 2 - Services Added Due to SB 1383**

- Continued processing of organics
- Guaranteed capacity
- Targeted education and outreach
- Contamination monitoring and minimization
- Customer compliance reviews
- Assistance with waiver management

**Table 3 - Enhanced Services**

- Enhanced bulky item collection for multi-family
- One additional special cleanup event
- Mulch and compost giveaways
- WM assumes responsibility for residential billing

**Key Terms in the New Agreement**

**Table 4 - Key Terms of the New Agreement**

- Term extended to November 2036
- Fees paid to City
- Franchise Fee - 11% residential
- Franchise Fee - 15% commercial
- Retain - \$0.50 fee per residential unit for SB1383 program administration
- Annual beautification funding to City (\$200K)
- Dedicated Waste Management staff for enhanced education & outreach
- Annual rate adjustments based on change in CPI and actual disposal
- Control of the flow of material - City has ultimate authority
- Performance audits - periodic review of contractor's performance
- Change in Consumer Price Index

**Customer Rates**

**Table 5 – Single-family Residential Rates**

Monthly Rate

Service	July 2019	December 2020	July 2021	October 2022	Proposed
<b>Standard Service</b>					
Residential Basic Cart Service	\$24.50	\$25.31	\$26.14	\$26.67	\$28.78
<b>Income Qualified</b>					
Residential Basic Cart Service	\$18.00	\$18.66	\$19.25	\$19.78	\$20.89
<b>Additional Carts:</b>					
Refuse	\$6.94	\$7.15	\$7.34	\$7.85	\$8.33
Recycling	\$1.38	\$1.41	\$1.46	\$1.46	\$1.46
Green Waste	\$3.51	\$3.80	\$3.92	\$4.10	\$4.10
Percent Change in Basic Cart		3.3%	3.3%	2.0%	7.9%

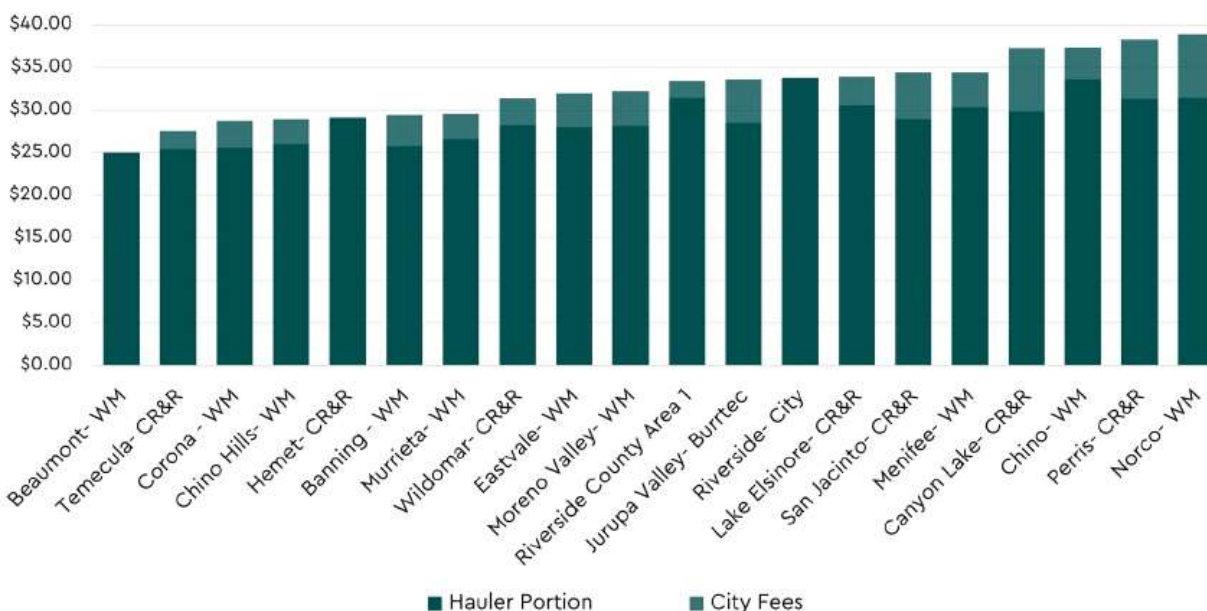
**Table 6 - Commercial Rates**

Monthly Rate for 1 Pickup per Week

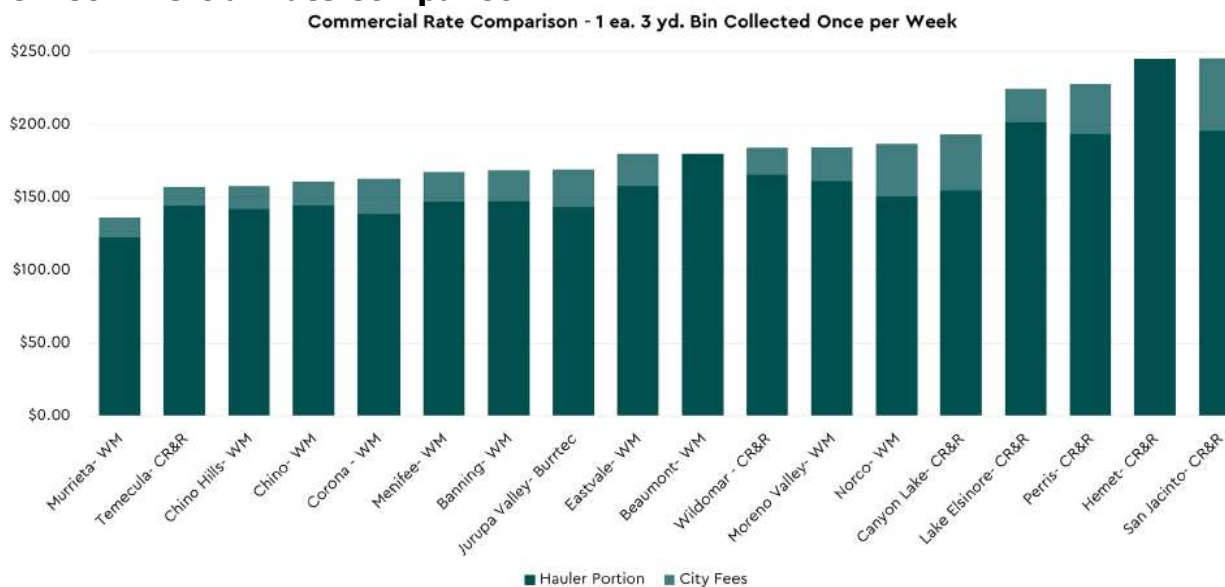
Container Size	July 2019	December 2020	July 2021	October 2022	Proposed
<b>Refuse</b>					
2 cubic yard bin	\$105.85	\$108.38	\$112.09	\$116.98	\$123.32
3 cubic yard bin	\$139.88	\$143.25	\$148.12	\$154.76	\$163.24
4 cubic yard bin	\$186.49	\$190.98	\$197.46	\$206.30	\$217.61
6 cubic yard bin	\$251.33	\$257.44	\$266.12	\$278.34	\$294.67
64 gallon cart	\$39.70	\$40.58	\$42.04	\$43.50	\$45.65
96 gallon cart	\$45.66	\$46.67	\$48.35	\$50.03	\$52.50
<b>Recyclables</b>					
3 cubic yard bin	\$46.65	\$47.68	\$49.39	\$51.10	\$53.63
<b>Organics</b>					
64 gallon cart	\$45.44	\$46.45	\$48.12	\$49.79	\$52.25
2 cubic yard bin	\$242.28	\$247.65	\$256.54	\$265.43	\$278.56
Percent Change		2.4%	3.4%	4.5%	5.5%

**Rate Comparison**

**Table 7 - Residential Rate Comparison**



**Table 8 - Commercial Rate Comparison**



**FINANCIAL IMPACT:**

Approval of the recommended action will result in estimated revenue increase in the amount of \$240,000 in the General Fund (110) from WM contributions towards City beautification and \$100,000 in the Residential Refuse and Recycling Fund (260) from administrative fees for SB 1383 program administration in FY 2024.

**ENVIRONMENTAL ANALYSIS:**

This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the commonsense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action is to approve a Resolution for a Second Amended and Restated Agreement with USA Waste of California, Inc., and rate adjustments for solid waste services and there is no possibility that approving this contract and rates will have a significant effect on the environment. Therefore, no environmental analysis is required.

**PREPARED BY:** JACQUELINE ZUKERAN, UTILITY BILLING AND ADMINISTRATION MANAGER

**REVIEWED BY:** TOM MOODY, DIRECTOR OF UTILITIES

**Attachments:**

1. Exhibit 1 - Resolution No. 2023-115
2. Exhibit 2 - Proposition 218 Notice