



# ***Agenda Report***

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## ***Fullerton City Council***

**MEETING DATE:** JANUARY 7, 2020

**TO:** CITY COUNCIL / SUCCESSOR AGENCY

**SUBMITTED BY:** KENNETH A. DOMER, CITY MANAGER

**PREPARED BY:** MEG McWADE, PUBLIC WORKS DIRECTOR  
NADIA COOK, SENIOR ADMINISTRATIVE ANALYST

**SUBJECT:** PROPOSED THIRD AMENDMENT TO AGREEMENT FOR SOLID WASTE HANDLING SERVICES BETWEEN THE CITY OF FULLERTON AND REPUBLIC SERVICES FOR GREEN MATERIAL AS ALTERNATIVE DAILY COVER MANDATE AND RELATED RESIDENTIAL RATE INCREASE OF \$1.51 PER MONTH

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### **SUMMARY**

Consideration of a Third Amendment to the Agreement for Solid Waste Handling Services between the City of Fullerton and Republic Services to implement residential green material composting under State mandate AB 1594 (2014) and corresponding fee increase for residential service.

### **RECOMMENDATION**

1. Adopt Resolution No. 2020-XX.  
RESOLUTION NO. 2020-XX - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, APPROVING THE THIRD AMENDMENT TO ITS FRANCHISE AGREEMENT FOR SOLID WASTE HANDLING SERVICES WITH REPUBLIC WASTE SERVICES OF SOUTHERN CALIFORNIA, LLC.
2. Authorize the City Manager to make any non-substantive changes and execute the Third Amendment on behalf of the City.
3. Authorize Staff to develop and provide notification to Fullerton residents regarding the rate increase of \$1.51 per month, effective February 3, 2020, for State mandated greenwaste composting.

## PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement/s:

- City Assets and Infrastructure.

## FISCAL IMPACT

Residential rates to implement residential green material composting under AB 1594 will increase by \$1.51 per month as of February 3, 2020.

## DISCUSSION

### Background

Currently, all greenwaste (yard waste, tree trimmings, etc.) is used as landfill alternative daily cover (ADC) at the Orange County Landfill system. The State requires daily cover be applied to landfills to reduce nuisances such as pests and odors. The Integrated Waste Management Act of 1989 (AB 939) allowed jurisdictions to claim ADC as diversion credit towards the City's recycling goals. In 1997, Orange County started accepting greenwaste for free (no tip fee) to incentivize its use as ADC. The use of greenwaste material as daily cover has helped Fullerton achieve the fifty percent diversion requirement mandated by AB 939.

Assembly Bill 1594 requires that as of January 1, 2020, greenwaste ADC will no longer be considered diversion and will no longer count towards recycling goals. This change to the state law also means that greenwaste will no longer be free to place at the landfill. If taken to the landfill, greenwaste will be considered disposal and charged standard trash rates. Jurisdictions are required to report to CalRecycle (the state agency that oversees recycling and solid waste) progress toward meeting the requirements of AB 1594. Greenwaste can be recycled as compost or processed through anaerobic digestion. Republic Services proposes to process greenwaste through composting.

This is an unfunded mandate with no reimbursement mechanism. According to state law, no reimbursement is required because a local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

### Green Material in Fullerton

Republic Services currently collects green material from single-family residential customers and delivers it to the CVT Regional Material Recovery and Transfer Station in Anaheim (CVT). The greenwaste is cleaned at CVT and then sent to a third party for grinding and transfer to the Brea Olinda Alpha Landfill. There, the greenwaste is used as ADC.

About 48,000 tons of greenwaste (inclusive of all streams: residential, commercial, self-haul direct to landfill, etc.) are currently reported as originating in the City of Fullerton and being used as ADC per year. The City's current total solid waste disposal is about 111,000 tons per year, meaning green material will represent a significant increase in the disposal tonnage attributed to the City after January 1, 2020, if not recycled. For

compliance with AB 1594, Republic has proposed to divert the green material it collects from single-family residences and compost it at Agromin OC (Agromin), located in Chino Hills.

#### Proposed Rate Increase

In September of 2019, Republic submitted a rate increase request to the City based on a cost of \$89 per ton to compost Fullerton's greenwaste at Agromin, rather than using the material as ADC at the landfill. This rate increase was driven by: 1) the cost of processing the green material at CVT by running the material over a trommel screen to remove non-compostables, hand-sorting over a line and then combining the material for transfer 2) transferring the material to Agromin (which is about 15 miles away as opposed to the landfill's location of about seven miles away from the CVT transfer station) and 3) the gate fee for composting at Agromin.

#### Franchise Agreement

The City would be granting the rate increase under Section 24.8 of the City's franchise agreement (Agreement) with Republic. Section 24.8 allows for discretionary, non-scheduled increases for "unusual changes in the cost of providing service under this Agreement." The section further states, "City shall review the Contractor's request and, in the City Council's sole judgment and absolute, unfettered discretion, make the final determination as to whether an adjustment to the maximum rates will be made, and, if an adjustment is permitted, the appropriate amount of the adjustment."

#### Consultant Review

To ensure the rates proposed by Republic Services to process the greenwaste were fair and reasonable, the City's solid waste consultant, SCS Engineers, and sub-consultant R3, conducted a review of the proposed rates. Based on a review of the actual waste stream, it was determined the loads were contaminated ranging from 1% to 10% - with Agromin accepting 1% contamination. Due to the observed contamination levels, Staff found greenwaste sorting, and the associated costs as outlined by Republic, to be reasonable. Both Republic and Staff agreed to R3's revised tonnage calculations based on historical information and Republic agreed to a revised unit count to reflect current 2019 accounts. The revised rate is an additional \$1.51 per household, bringing the maximum single-family rate to \$22.53.

#### Orange County Single-Family Rates

The following table provides a comparison of single-family rates and proposed rate increases for green material diversion, or landfill disposal, for cities serviced by Republic Services in Orange County.

City	Current Single-Family Rate	Proposed Rate Increase
<b>Fullerton</b>	<b>\$21.02</b>	<b>\$1.51</b>
Yorba Linda	\$21.54	\$2.88
Anaheim	\$21.62	TBD
Brea	\$21.81	\$0.69*
Villa Park	\$22.81	\$5.34
Garden Grove	\$23.43	\$2.71
Placentia	\$25.54	\$2.24

\*Brea has decided to landfill its greenwaste material for the next several months, rather than compost.

On December 10, 2019, the City of Orange City Council, which is served by CR&R, approved a rate increase of \$3.87 for residential waste collection which includes the requirements as imposed by AB 1594.

AB 1594 goes into effect January 1, 2020. Republic has agreed to start composting Fullerton's green material January 1, 2020 and absorb the additional cost of \$1.51 per household until the approved additional cost is reflected in Fullerton's billing to residents. Fullerton expects the effective date to implement the additional fee of \$1.51 in residential billing to be February 3, 2020. The refuse charges are currently included on the residential water bills. A brief narrative, approved by Staff, explaining the State mandated rate increase will be included on the water bills to notify residents about the additional increase to the single-family rate.

### Third Amendment Provisions

#### *Flow Control*

Under Section 26.1 of the Agreement for Solid Waste Handling Services, "Flow Control Option", Fullerton has the ability to choose the location and delivery of solid waste and green material. For example, should Orange County permit its Olinda landfill for composting, Fullerton could direct Republic Services to compost green material at the closer location. A closer composting facility with less imposed transportation costs would translate to a lower rate to residents for green material composting. This flow control option has also been reiterated in the Third Amendment, giving Fullerton discretion on the location it recycles its green material.

#### *Most Favored Nation*

Also under the Third Amendment, Fullerton's cost of \$82.41 per ton to compost green material must be equal to or lower than the amount paid for organics recycling by any other cities served by Republic's Anaheim Division. This guarantees Fullerton is not

charged more for green material composting compared to other cities served by Republic's Anaheim Division.

#### *CEQA*

The City has determined that solid waste handling services is an activity supported in part through a public agency contract and therefore may be considered a "project" under the California Environmental Quality Act (CEQA). However, the Third Amendment provides for continuation of an existing service in the City and it has been recommended that the City Council find that it is exempt from CEQA pursuant to the Common Sense exception set forth in CEQA Guidelines section 15061(b)(3).

#### *Approved Maximum Rates*

The maximum rate reflected on Exhibit A to the Agreement is amended to add an additional charge of \$1.51 per month, under the category "State Imposed Greenwaste Recycling Fee." This fee may be charged by the refuse hauler as part of the maximum rates it charges for services to customers at single family dwellings and dwelling units at multi-family dwellings. The "State Imposed Greenwaste Recycling Fee" is subject to the same adjustment formula each year set forth in the Agreement, Section 24.5.

#### Summary

Per State law as of January 1, 2020, green material as ADC will no longer be considered diversion and will instead be considered disposal in terms of measuring a jurisdiction's annual fifty percent CalRecycle diversion requirement. To continue receiving credit for diverted green material, Republic Services is proposing to compost Fullerton's curbside collected green material at \$82.41 per ton, resulting in an additional single-family rate increase of \$1.51. Should City Council approve the additional rate increase, Republic has agreed to absorb the cost of composting Fullerton's green material from January 1, 2020 through February 3, 2020, when the fee would be implemented in residential billing.

#### Attachments:

- Attachment 1 – PowerPoint Presentation
- Attachment 2 – Resolution Approving Third Amendment to Solid Waste Agreement
- Attachment 3 – Third Amendment to Solid Waste Agreement