



## **CITY OF SALINAS COUNCIL STAFF REPORT**

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**DATE:** SEPTEMBER 28, 2021

**DEPARTMENT:** PUBLIC WORKS

**FROM:** DAVID JACOBS, PUBLIC WORKS DIRECTOR

**BY:** BRIAN FRUS, SENIOR CIVIL ENGINEER

**TITLE:** FRANCHISE AGREEMENT BETWEEN THE CITY OF SALINAS AND ALLIED WASTE SERVICES, dba REPUBLIC SERVICES OF SALINAS FOR THE COLLECTION, TRANSPORTATION, AND DISPOSAL OF SOLID WASTE

### **RECOMMENDED ACTION:**

A motion to approve a Resolution to:

1. Approve an Amended and Restated Collection Services Franchise Agreement for the Provision of Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services between the City and Allied Waste Services, dba Republic Services of Salinas (“Franchise Agreement”); and
2. Authorize the City Manager, or his designee, in consultation with the City Attorney, to make any non-substantive revisions to the Franchise Agreement, that are consistent with the action of City Council; and
3. Authorize the City Manager to send a letter to the Salinas Valley Solid Waste Authority rescinding the City’s December 6, 2018 Notice of Intent to Withdraw from the Salinas Valley Solid Waste Authority.

### **EXECUTIVE SUMMARY:**

The City of Salinas has had an exclusive franchise agreement with Allied Waste Services, dba Republic Services of Salinas (Republic) for solid waste, recycling, and green waste collection since 2001. Given legislative changes, the City’s redevelopment goals, the need to modify interrelated agreements that involve the Salinas Valley Solid Waste Authority (Authority) and the addition of contracted street sweeping services, the existing agreement required updates and modifications to properly address these issues.

State mandatory commercial recycling legislation SB 1383 passed in 2016, requires cities to implement organics services to all residential and commercial accounts by 2022. This mandate necessitates related education and outreach, establishment of edible food recovery programs, compliance monitoring and related enforcement.

In 2004, Republic and the Authority executed an agreement for organics processing with a fixed rate without means for adjustment. The rate is considerably lower for Salinas residents than other Authority member jurisdictions and could remain in effect through all extensions of the solid waste agreement between the City and Republic.

The Alisal Vibrancy Plan (AVP) redevelopment areas include both the Republic corporate yard and the Authority Sun Street Transfer Station (SSTS) locations. Hence, the City has requested both entities relocate their respective facilities. Republic has acquired the Madison Lane Transfer Station (MLTS) with plans to relocate their operations there. The Authority is in the process of signing a lease with Republic to relocate the SSTS operations to the MLTS.

Salinas served a notice of intent to withdraw from the Authority in December, 2018. To address the City's intent to withdraw, a Memorandum of Understanding (MOU) was signed on August 24, 2021 in which the City will agree to accept equalization of the Authority's organic processing fee costs, along with termination of the 2004 processing agreement. However, this is contingent on the Authority's entering a binding agreement with Republic to lease a portion of the MLTS property. The lease agreement must occur at its September 16, 2021, Board of Directors meeting, or by special meeting no later than September 27, 2021.

The updated Franchise Agreement (referred to in this Report as the "New Agreement") embodies the above issues with respect to the City and Republic and spawned separate agreements between both the Republic and the Authority, and the City and the Authority. However new expenses will occur as a result as Republic will experience nearly \$3.2M in additional costs: Including 47% of which are due to SB 1383 compliance, another 27% in increased hauling costs from MLTS rather than SSTS and 16% in increased disposal and AB939 costs at Authority facilities.

A typical component of such agreements, franchise fees represent the reasonable market value of the grant of the solid waste franchise. Negotiations between the City and Republic resulted in the franchise fee decreasing from 26% to 15% though it will now apply to all franchised services as commercial recycling had not previously been considered. In addition, some \$1,670,000 in annual fees for AB 939 support, vehicle road impacts, street sweeping, and management will be paid to the City. Together the City will see a total of \$7.4M in revenue with the New Agreement (an increase of \$136,400). Overall, these result in an across-the-board rate increase of 9% in all but commercial recycling customer rates. This translates to monthly increases of \$2.41 for a typical 32-Gallon residential service and \$39.81 to a 3 Cubic Yard commercial garbage service. Because commercial recycling rates are subject to the 15% franchise fee under the new agreement, this service classification will see a larger total increase.

A key part of the negotiations included an extension of the term. The value for the City in exchange for granting a longer term is that Republic could hold the rates stable to avoid a larger increase. The City had the option of soliciting bids on the franchise, if at any point in the negotiations the rates did not appear competitive. The result is the New Agreement is for a 15-year term beginning October 1, 2021, to which Republic may request a five-year term extension.

The problematic issue of account delinquency was also addressed in the new agreement. Currently Republic can discontinue service to delinquent commercial and multi-family accounts. It does not however have this option with single family residential accounts. The Salinas Municipal code requires that all residents and business maintain and pay for solid waste services. This has led to a number of delinquent accounts for which Republic has little recourse to collect its debt even though it is still under the obligation to provide service. The City will now allow Republic the ability to discontinue

service to all customers who do not pay their bills, but only upon prior approval by City staff. The expectation is that a far greater number of delinquent customers will resume payment if their service could be discontinued.

An additional component of the agreement process was that the City and Republic agreed to delay the annual rate increase which normally occurs by July 1<sup>st</sup> during the negotiations and until the New Franchise Agreement was approved by City Council.

## **BACKGROUND:**

Since July 1, 2001, the City of Salinas (City) has had an exclusive franchise agreement with Republic, for municipal solid waste, recyclables, and green waste collection services. The Franchise Agreement has had multiple amendments and extensions up to the current Revised and Restated Franchise Agreement with a term expiring June 30, 2025, with an optional extension at the City's sole discretion for five (5) additional years.

In 2004, Republic and the Salinas Valley Solid Waste Authority executed an agreement for organics processing services that continues through any and all extensions of the solid waste Agreement between the City and Republic. Under the organics processing agreement, the established processing rate was locked in without an associated annual escalator and has remained at a vastly lower rate for City residents than the other Authority member jurisdictions and the posted facility gate rate.

In September 2016, Governor Brown signed Senate Bill 1383 (SB 1383) into law as part of the state's broader efforts to address climate change. SB 1383 legislation was specifically created to reduce emissions of short-lived climate pollutants by setting waste reduction targets, including:

- Reducing the volume of organic waste sent to landfills by 75% by the year 2025, and
- Rescuing a minimum of 20% of surplus edible food from landfill to help feed the nearly 1 in 4 Californian's who currently are food insecure.

CalRecycle finalized SB 1383 regulations in the Fall of 2019 which charged jurisdictions to:

- Provide organic waste collection to all residents and businesses.
- Establish an edible food recovery program to redistribute edible food from the waste stream to food insecure individuals, and
- Inspect covered entities and enforce compliance by adopting an enforcement ordinance by January 1, 2022.

As such, jurisdictions that utilize private hauling companies for solid waste collection, like the City, are tasked with ensuring that jurisdictional requirements are achieved by coordinating efforts with the contracted hauler(s) to assign associated roles and responsibilities.

The City of Salinas is currently a member of the Authority, which is a joint powers agency responsible for the solid waste disposal and resource recovery of its member jurisdictions. In addition to the City, the Authority is comprised of the cities of Greenfield, Gonzales, Soledad, King City, and the County of Monterey. On November 20, 2018, the Salinas City Council approved Resolution 21521 which

authorized the City Manager to submit a one-year advance written notice of intent to withdraw from the Authority, which was officially served on the Authority on December 6, 2018. On December 6, 2019, the City was eligible to withdraw from the Authority, however, the City has remained as a member of the Authority in an effort to reach agreement on outstanding issues.

The Salinas City Council adopted the Alisal Vibrancy Plan (AVP) which includes the redevelopment of Downtown Salinas. Currently located within this planned redevelopment area are the Republic corporate yard (271 Rianda Street) and Authority transfer station (139 Sun Street). Under the AVP, the City requested that both entities relocate their respective facilities out of the planned redevelopment area. Republic acquired the Madison Lane Transfer Station from Waste Management in November of 2018 as the first stage of its relocation plan and are covering the entire relocation costs which are estimated at roughly \$34 million. The MLTS is located in an unincorporated area of Monterey County at 1120 Madison Lane. Additionally, at the City's request, Republic is currently negotiating a lease agreement with the Authority to utilize a designated area of the MLTS for Authority operations relocated from the Sun Street Transfer Station.

In an effort to address the outstanding concerns of the City and to warrant rescission of the City's notice of intent to withdraw, the City and Authority entered into an agreement via Memorandum of Understanding (MOU) on August 24, 2021. The MOU includes the following key elements that have been agreed to in principle:

- City agrees to accept equalization of the organic processing fee costs, to be effective July 1, 2022;
- City agrees to support termination of the 2004 processing agreement between Republic and the Authority;
- City agrees to rescind its Notice of Intent to Withdraw from the Joint Powers Authority Agreement, provided that the Authority binds itself to relocation through execution of a lease with Republic Services for relocation of its SSTS operation to MLTS, with said lease now completed.;
- The Authority agrees to cease operations at SSTS and close the facility within sixty (60) days of Republic providing notice of completion of all agreed lessor improvements needed at MLTS such that the Authority can relocate SSTS operations;
- The Authority agrees to remove all waste and recyclable materials from the SSTS property and complete an environmental property assessment within 6 months of terminating operations at SSTS;
- The Authority agrees to enter a binding agreement with Republic for lease of a specified area of the MLTS property at its September 16, 2021, Board of Directors meeting, or via special meeting no later than September 27, 2021; and
- The Authority will continue to conduct budget related financial reviews and rate studies as needed to eliminate subsidies between Authority services such as landfill disposal, organic waste processing, construction and demolition waste processing, AB 939 services, and franchised, non-franchised, and self-haul services.

In anticipation of necessary contractual changes, the City hired R3 Consulting Group, Inc. (R3) to provide solid waste contract negotiation assistance. Consequently, City staff and R3 developed deal points which set the foundation for a new franchise agreement. Since that time, City staff along with

R3 have been in negotiations with Republic.

### **JUSTIFICATION:**

The term of the existing Franchise Agreement expires June 30, 2025. In addition to this fast-approaching expiration date, it is also necessary to obtain a New Agreement that addresses existing unfunded mandates including Assembly Bill (AB) 341 and AB 1826, as well as the newly adopted Short-Lived Climate Pollutants mandate, Senate Bill 1383 (SB 1383). SB 1383 requires cities to implement organics services to all residential and commercial accounts by January 1, 2022. Additionally, the City will be required to conduct related education and outreach; establish edible food recovery programs; monitor compliance; and conduct enforcement related to the bill. As a result, and in addition to the upcoming expiration, it is necessary to address the franchise scope and services. In negotiating the New Agreement, staff considered State legislation and CalRecycle regulations, key elements, terms, and rates as described in detail below. The final draft New Agreement is attached to this Report. In finalizing the New Agreement and negotiation process, staff requests authorization, in consultation with the City Attorney, to make any non-substantive revisions that are consistent with the action of the Council.

### **KEY DRIVERS:**

As part of the negotiation process, existing programs and solid waste expenditures were considered. Essentially, through the negotiation process, it was determined that all programs will be enhanced to comply with regulatory requirements, as discussed below.

### **ALISAL VIBRANCY PLAN**

The Alisal Vibrancy Plan (AVP) was adopted by Salinas City Council and includes the redevelopment of Downtown Salinas. Under the AVP, the City requested that both Republic and the Authority relocate their respective facilities out of the planned redevelopment area. At the City's request, Republic is currently negotiating a lease agreement with the Authority to utilize a designated area of their newly acquired processing facility, the MLTS, for Authority operations that are to be relocated from the SSTs. The MLTS is located in an unincorporated area of Monterey County at 1120 Madison Lane.

### **REGULATORY DRIVERS**

One key element addressed by the New Agreement is the collection and services offered by the waste hauler to businesses, multi-family complexes and residential accounts. In brief, existing mandatory commercial recycling legislation, AB 341, requires commercial recycling be provided to businesses generating four (4) cubic yards or more of waste and multi-family complexes with five (5) or more units, to recycle and implement recycling programs. These services are currently available to commercial accounts as mandated by the bill, but at this time it is voluntary for businesses to acquire recycling services. Due to the lack of voluntary participation in recycling services by customers, the City has not been able to reach full compliance with AB 341.

Following AB 341, and to further support the State's goals, mandatory organics commercial recycling

law, AB 1826, was adopted and implemented in April of 2016. This bill required the phasing in of organics services and programs to businesses and multi-family complexes that generated specific thresholds of waste. The last phase of AB 1826 became effective January 1, 2021, requiring customers generating two (2) cubic yards of solid waste or more, to obtain organic services and/or implement programs. Under the existing Agreement, mandatory services are available to covered accounts through the hauler, however, similar to AB 341, the City has not fully reach compliance with AB 1826.

To further build on AB 341 and AB 1826, on January 1, 2022, the new unfunded SB 1383 State mandate becomes effective. Unlike AB 341 and AB 1826, SB 1383 extends and requires all accounts to obtain organics services and programs, including residential accounts. Although SB 1383 is applicable to all accounts, de minimis waivers may be granted to business accounts if more than two (2) cubic yards of solid waste is generated but less than twenty (20) gallons of organics waste is generated per week. Additionally, if business accounts generate less than two (2) cubic yards of solid waste per week and less than ten (10) gallons of organics, then a waiver may be applicable. Other than these identified threshold exemptions, all accounts are covered by the new legislation, and it is mandated by the State for organic services to be provided.

Should the New Agreement be approved, the City will need to update its municipal code through an adoption of a new ordinance(s). This item will be presented to City Council in the following months and will incorporate State mandates and requirements of AB 341 and 1826, as well as SB 1383, addressing items such as exemptions, mandatory collection services, and enforcement mechanisms.

### **NEW TERMS:**

The term of the New Agreement is for a fifteen (15) year period beginning October 1, 2021 and ending September 30, 2036. Additionally, if not in default of the New Agreement, Republic may request one (1) separate and sequential five-year term extension to the initial term, potentially extending the term to September 30, 2041. The franchise fee will decrease from 26% to 15% and is based on monthly gross revenues, though it will now apply to all franchised services. Previously there was no franchise fee charged on commercial recycling.

Under the New Agreement, Republic is to vacate and close its existing operations yard at 271 Rianda Street by October 1, 2023, and fully-relocate to Madison Lane Transfer Station. Self-Haul customers will also be redirected from the Sun Street Transfer Station (SSTS) to Madison Lane.

With the New Agreement, all residential accounts will be provided a bundled package and rates with services including a garbage, recycle and organics container (at varying cart sizes based on individual customer subscription level) to be serviced on at least a weekly basis. Regarding commercial accounts, at a minimum, a bundled service will be provided and include a garbage, recycle and organics container (at varying bin and/or cart sizes based on individual customer subscription level) to be serviced on at least a weekly basis, though rates vary by commodity, unless a de minimis waiver of organic waste generation is approved.

Education and Outreach efforts under the New Agreement will require that Republic coordinate with the Authority on all mandated legislative regulations, including upcoming SB 1383 requirements.

Coordinated plans of action will be reviewed by the City.

Another key element of the New Agreement is the ongoing discussion of transferring Street Sweeping operations and management responsibilities to Republic effective in the first half of 2022. Republic will utilize a third-party subcontractor, which will require approval by City staff. Additionally, Republic will reimburse the City for the delay in assuming street sweeping duties for the period beginning October 1, 2021, through the actual 2022 start date.

### **ACCOUNT DELINQUENCY:**

Currently Republic has the ability to discontinue service to delinquent commercial and multi-family accounts. Though this has not been an option with single family residential accounts. The City's Municipal code requires that all residents and business both maintain and pay for solid waste collection services. This essentially requires the contracted waste hauler to continue providing service even though a customer is not paying their bill. The City will now allow Republic the ability to send notices that service may be discontinued to all customers who do not pay their bills but will only be allowed to follow through with discontinuation with prior approval by City staff. The expectation is that a far greater number of delinquent customers will resume payment once advised that their service could be discontinued.

### **CITY BENEFITS:**

The following items are the resulting benefits of a newly negotiated Agreement term for the City and its rate payers:

#### **Delay in rate increase;**

- The scheduled rate increase originally set for July 1, 2021, is delayed until October 1, 2021.

#### **Delay in organics processing rate increase;**

- The anticipated elimination of the 2014 organics agreement between Republic and the Authority will result in an increase of processing rates from the discounted rate to the standard gate rate (aligning the City with the other Authority member agencies), however this change in rate will be delayed until July 1, 2022.

#### **Relocation of Republic operations;**

- In order to comply with the City's request to relocate its operations following the adoption of the AVP by Salinas City Council, Republic has agreed to close its current facility at 271 Rianda Street and fully relocate all operations to MLTS by October 1, 2023. In an effort to assist the City, Republic is currently negotiating a lease agreement with the Authority to allow for the relocation of SSTS operations to a specified area of MLTS as well. Please note that Republic is not requesting financial assistance from the City and is covering all of the capital costs (estimated at roughly \$34M) associated with the relocation and closure of its current facility, purchase of new collection vehicles and collection containers.

#### **Redirection of self-haul activities;**

- Self-Haul will be redirected from SSTS to MLTS in part to eliminate traffic congestion

and related unwanted public nuisances from the downtown area.

Retention of Flow Control rights for the City:

- Under the New Agreement, the City has maintained the right to direct the flow of materials from collection to post-collection facilities for all commodities except for recyclable materials.

Senior Discount as Contractor's Goodwill:

- Republic has agreed to provide a discount for senior residents, who meet specified criteria, as a gesture of good faith and without being subsidized for providing the senior discount.

Minimum Franchised Diversion Rate:

- Republic has agreed to achieve a diversion rate of 60% by 2028.

SB 1383 Compliance:

- The City and Republic have been working diligently to create an Agreement that meets the regulations established under SB 1383, and as a result City will receive:
  - Organics (green waste and food waste) service for residential and commercial customers;
  - Compliant container procurement and distribution;
  - Contamination tracking, recording, and reporting;
  - Public Outreach and Education Services (Republic to coordinate efforts with the Authority);
  - Mulch/Compost Delivery; and
  - Edible Food Recovery Support.

Republic to assume Street Sweeping in 2022

- The option for Street Sweeping management responsibilities will be available to transfer from the City to Republic by July 1, 2022. Part of this transfer includes Republic:
  - Utilizing a third-party contractor for Street Sweeping operations; and Reimbursing City for an in lieu of contract fee for the interim period prior to assuming street sweeping duties (October 2021 – July 2022).
- Carbon Offset Fee. Republic will pay the City a one-time **Three Hundred Thousand Dollars (\$300,000)** payment as a carbon offset to allow Republic adequate time to source, test and replace fossil fuel powered collection vehicles with electric powered collection vehicles. This one-time payment is due within thirty (30) days of the Effective Date of the Agreement.

Collection at City-Sponsored Events.

- Republic to collect up to eight (8) events per year, at City's discretion.

Additional benefits include the incorporation of food waste collection, new collection vehicles, new SB 1383 compliant collection containers, higher standards of accountability, increased diversion expectations and standards, and the necessary rebalancing of the current routing structure to increase efficiencies.

A monthly franchise fee payment of 15% of Gross Revenues received by Republic will be paid to the City. The franchise fee will support solid waste related activities such as staff oversight and administration of contracts and programs, consultant services, enforcement of ordinances, clearing of drain inlets to comply with storm water regulations, cleanup of illegal dumping and homeless encampments, tree maintenance, and customer service. The franchise fee is the product of extensive negotiations between the City and Republic and represents the reasonable market value of the grant of the solid waste franchise.

The terms also include an annual AB 939 Support Fee in the amount of \$200,000 paid to the City beginning October 1, 2021. Going forward, this fee is due on an annual basis beginning July 1, 2022 and will be increased by changes in the Consumer Price Index. This fee will assist in funding the City's related activities such as compliance monitoring through administrative and field audits; education and outreach programs; program tracking software and account maintenance; consultant support services; analysis and studies; planning and monitoring of legislation and so forth. These efforts are also supported by revenues collected from the franchise fee.

An annual Vehicle Road Impact Fee of \$500,000 paid to the City beginning October 1, 2021. Going forward, this fee is due on an annual basis beginning July 1, 2022 and will be increased by changes in the Consumer Price Index. This fee will support the continued maintenance of City public roads due to the impacts from the normal operations of solid waste vehicles. Similar to the franchise fee, the Vehicle Road Impact Fee is the product of extensive negotiations between the City and Republic and represents the reasonable cost to reimburse the City for maintenance and repair of City's streets from the ongoing use by Republic's solid waste collection vehicles. Additionally, an analysis of City's most recent Pavement Management Plan indicates that ongoing maintenance and repairs attributed to solid waste collection vehicles could be up to \$2.1M per year. The City opted not to include a higher Vehicle Road Impact Fee to lower the impact customer rates.

An annual Street Sweeping Fee of \$870,000 paid to the City beginning October 1, 2021. Going forward, this fee is due on an annual basis beginning July 1, 2022 and will be increased by changes in the Consumer Price Index. However, the City has the option for Republic to assume Street Sweeping and associated management responsibilities in lieu of being paid the fee. Republic would then utilize a third-party contractor for assumed Street Sweeping operations. This is the preferred option for the City as the fleet of street sweeping vehicles is aging with at least one unit in need of replacement at a cost of \$1/2 million. Furthermore, the necessary software to reconfigure the routing of street sweepers is also costly. Thus, if the service is contracted it would yield a savings and allow more flexibility to change the routing to accommodate both Republic's collection routes and the City's stormwater permit requirements. The timing of this contract approval did not allow for labor related details to be properly addressed ahead of time and hence the fee option in lieu of contracted services was included until such time as this outstanding issue can be resolved.

An annual Agreement Management Fee of \$100,000 paid to the City beginning October 1, 2021. Going forward, this fee is due on an annual basis beginning July 1, 2022 and will be increased by changes in the Consumer Price Index. This fee will support the continued management of the Franchise Agreement with Republic and is based on prior annual costs incurred by the City.

A one-time payment of \$300,000 will be paid to the City for immediate SB 1383 support. This fee is due within thirty (30) days of the onset of the New Agreement.

A one-time reimbursement will be paid to the City for the cost(s) of the Franchise Agreement negotiations process, at a rate of \$250,000. This fee is due within thirty (30) days of the onset of the New Agreement.

R3 reviewed 55 jurisdictions throughout California with information similar to the fee types proposed by Salinas. The results show franchise fees ranging from 8.0% to 26.0%, with an average of 14.5%. Many of the jurisdictions also have additional fees that increases the total fees ranging from 10.0% to 34.3%, with an average of 20.4%. Additional fees included in other franchise agreements are listed below:

- Vehicle Road Impact Fee
- Franchise Agreement Management Fee
- Administration
- AB 939 Support Fee
- SB 1383 Support Fee
- Storm Drain Capture Fee
- Street Sweeping Fee
- Landfill Closure Fee
- Illegal Dumping fee
- Household Hazardous Waste Fee
- Litter Control Fee

Specifically, related to new fees being proposed by Salinas, the Vehicle Road Impact Fees ranged from \$30,000 to \$3,000,000 per year, and the AB 939 Fees ranged from \$41,000 to \$3.2M per year. It should be noted that Salinas' proposed 15.0% franchise fee, while slightly higher than the average of 14.5%, is significantly reduced from the current 26.0%. It is important to note that Salinas' total proposed fees of 19.3% is lower than the average total fees of 20.4%. If the street sweeping is contracted this figure drops to 17% as the fee would be paid directly to the contracted provider rather than to the City. From this review, Salinas' proposed 2021/22 total of fees fall within these ranges, and are listed in **Table 1** below:

<b>Table 1 Estimated Fees Paid by Hauler</b>				
	<b>2020/21</b>		<b>2021/22</b>	
	<b>Amount</b>	<b>Percent</b>	<b>Amount</b>	<b>Percent</b>
Franchise Fee	\$7,200,000	26.0%	\$5,753,900	15.0%
Franchise Agreement Management Fee	\$87,500	0.03%	\$100,000	0.3%
Vehicle Road Impact Fee	\$0	N/A	\$500,000	1.3%
AB 939 Support	\$0	N/A	\$200,000	0.5%

City Street Sweeping Fee	\$0	N/A	\$870,000	2.3%
Total Net Payments to City	\$7,287,500	26.3%	\$7,423,900	19.3%‡
Gross Revenue Subject to Franchise Fee	\$27,700,000*		\$38,547,000**	
* Excludes \$7.5M for commercial recycling under the terms of the current franchise agreement.				
** Assumes the proposed 9.0% rate increase is approved by Salinas City Council as part of the new franchise agreement.				
‡ Lowers to 17% if Street Sweeping services are contracted.				

## **CUSTOMER RATES:**

On October 1, 2021, the proposed rates included as part of **Attachment B** and in association with the New Agreement will become effective. Republic's proposed rates were set to become effective July 1, 2021 but were deferred during the negotiation process of the New Agreement. Please note that future rate increases will return to the normal fiscal year schedule beginning July 1, 2022. Additionally, Republic, and not the City establishes the rates, conducts all customer billing and bill collection. The various disposal, processing, and AB 939 fees charged by SVSWA to Republic are treated as pass-through costs. The City responsibility is to review's Republic's rate application for accuracy of the calculations.

As written in the New Agreement, the collection elements of the maximum service rates may be adjusted annually by the percent change in the CPI-U Index and is calculated using the change in the 12-month average between prior preceding year ending September 30<sup>th</sup>, and the preceding year ending September 30<sup>th</sup> (rate adjustments previously utilized the average change in CPI-U Index). The total increase to the service component cannot exceed four percent (4.00%) over the last reporting period. Any percent overage not applicable during the adjustment period shall not be carried over into any succeeding year and thus be considered forfeit by Republic.

The disposal and organic waste processing elements may be adjusted annually based on the per-ton tipping fees charged by the Authority. Regarding the recycling processing component, increases or decreases related to privately-owned or operated facilities cannot exceed four percent (4.00%). Any percent overage not applicable during the adjustment period shall not be carried over into any succeeding year and thus be considered forfeit by Republic.

New agreements bring new, improved, and increased services and levels of expectations, however new services for the hauler come with increased costs to provide those services. Increased costs to provide services are passed on to rate payers through rate increases. The City and Republic have worked to minimize rate increases as much as possible, however certain costs are unavoidable. Republic will experience nearly \$3.2M in additional costs as a result of the New Agreement, due to factors such as SB 1383 compliance efforts (rerouting for organics (green and food waste), new vehicles and containers), regular CPI adjustments, Street Sweeping fee (or assuming contracted service and managerial responsibilities), increased hauling costs (increase in distance from SSTS to MLTS) and increasing disposal and processing costs at Authority facilities. A breakdown of these costs and the estimated annual increase by line item from FY 20/21 to FY 21/22 are provided below in **Table 2**.

Table 2 Estimated Service Cost Increases for Hauler			
	2020/21	2021/22	Increase
AUTHORITY Disposal Cost	\$6,850,000	\$6,850,000	\$0
AUTHORITY Organics Cost	\$342,900	\$479,600	\$136,700
AUTHORITY AB 939 Cost	\$1,676,800	\$2,044,700	\$367,900
July 2021 CPI Collection Cost Increase	\$16,852,900	\$17,051,800	\$198,900
Republic SB 1383 Support Services Cost	\$0	\$318,000	\$318,000
Republic Direct Haul Costs (discontinue using SSTs)	\$2,109,000	\$2,954,900	\$845,900
Republic SB 1383 Container Compliancy Costs	\$0	\$240,000	\$240,000
Republic SB 1383 Organic Routes	\$0	\$375,000	\$375,000
SB 1383 Account Migration	\$0	\$542,000	\$542,000
Franchise Fee and Other Payments to City	\$7,287,500	\$7,423,900*	\$136,400
<b>Estimated Total Revenue</b>	<b>\$35,119,100</b>	<b>\$38,279,900</b>	<b>\$3,160,800</b>
<b>Total Increased Costs</b>			\$3,160,800
<b>Percent Increase</b>		<b>9.0%**</b>	
* Includes \$870,000 in Street Sweeping Fees			
** Commercial Recycling Rates will increase by 28.2% as they will now be subject to the same 15% Franchise Fee			

Regarding the residential rates, the proposed overall increase over the existing rates is approximately 9.0%, increasing the monthly rate of a typical 32-gallon garbage cart \$2.41, from \$26.76 to \$29.17. This increase in rates was pre-approved under the existing Agreement with an effective date of July 1, 2021, but was deferred until October 1, 2021, due to ongoing negotiations for the New Agreement. The predetermined increases are directly related to the organics portion of the bundled rate and is a result of the implementation of new residential organics programs and related organics processing fees. Additionally, organics processing rates for Republic has been provided under a contractually mandated premium that will terminate July 1, 2022 and will necessitate an increase in organic service rates at that time as a result.

Regarding the commercial garbage rates, the proposed overall increase for commercial services is approximately 9.0% as well in all but commercial recycling customer rates. A typical 3 Cubic Yard Garbage Bin will increase \$39.81 from \$441.20 to \$481.01. Because commercial recycling rates will now be subject to the 15% franchise fee under the new agreement, this service classification will see a total increase of 28.2%. However, because the overall franchise fee charged has been lowered, the resulting net increase to a commercial customer with equal sized garbage and recycling containers is 16.6%.

The proposed overall increase for roll-off garbage services is also approximately 9.0%. Commercial and roll-off recyclable and organic increases vary by service level. All commercial and roll-off rates are reflected in the rate schedule attached to this Report.

**Table 3** below compares the Approved FY 20/21 (July 1, 2021) rates to the proposed Adjusted FY 20/21 (October 1, 2021) rates of base services (Garbage, Recycling and Organics) for residential and commercial customers.

<b>Table 3</b> <b>Estimated Service Cost Increases for Hauler</b>					
Base Services by Line of Business	Line of Business	Adjusted FY 20/21 Rates	Proposed FY 21/22 Rates	Percent Change	Increase
32-Gallon Garbage, 64 Gallon Recycle, 96 Gallon Organics	Residential	\$26.76	\$29.17	9.0%	\$2.41
3 Cubic Yard Garbage Bin, 1 Pickup per Week	Commercial	\$441.20	\$481.01	9.0%	\$39.81
2 Cubic Yard Recycle Bin, 1 Pickup per Week	Commercial	\$242.40*	\$310.85	28.2%	\$68.44
64-Gallon Organics Cart, 1 Pickup per Week	Commercial	\$9.33	\$64.67	9.0%	\$5.34
<i>* Under both the existing Agreement Commercial Recycling rates are 65% Under the New Agreement Commercial Recycling rates are set based on collection and recyclables processing costs, but the FY 2021/22 rates maintained the same 65% of commercial garbage rates as a base rate going forward. This more accurately captures the cost or revenue associated with processing and the sale of recyclable materials.</i>					

**Table 3** below summaries recent rate increase for other cities that have amended their franchise agreements in order to comply with SB 1383 regulations.

<b>Table 3</b> <b>Customer Rate Increases to Meet Regulatory Change / or Recent Rate Increases</b>			
Jurisdiction	Residential	Commercial	Date
<b>Average - All Listed</b>	<b>17.9%</b>	<b>28.1%</b>	
Salinas	9.0%	9.0%*	10/1/21
Azusa	5.5%	24.0%	2021
Beaumont	0.0%	14.3%	2019
Calexico	0.0%	7.0%	2019
Castro Valley Sanitary Dist.	15.4%	-11.9%	2019
Citrus Heights	30.0%	Open Market	Pending
Covina	8.2%	19.0%	2021
Elk Grove	23.0%	Open Market	2021
Folsom	22.0%	44.0%	2021
Galt	34.0%	149%	2019

**Table 3**  
**Customer Rate Increases to Meet Regulatory Change / or Recent Rate Increases**

<b>Jurisdiction</b>	<b>Residential</b>	<b>Commercial</b>	<b>Date</b>
Glendora	8.3%	18.5%	2018
Half Moon Bay	47.2%	-10.0%	2018
Healdsburg	57.0%	57.0%	2021
Hermosa Beach	5.7%	27.5%	2020
Irwindale	0.0%	10.3%	2020
Los Altos	25.4%	25.4%	2020
Milpitas	11.1%	21.6%	2017
Monrovia	8.0%	20.0%	2017
Nevada County	3.5%	3.5%	2019
Oakland	64.0%	50.0%	2018
Piedmont	53.5%	53.5%	2018
Pleasant Hill	6.2%	6.2%	2020
Pleasanton	-11.4%	235.1%	2016
Rancho Cordova	22.9%	Open Market	Pending
Riverside	14.4%	Open Market	2021
Roseville	15.7%	15.7%	2021
San Gabriel	6.5%	19.0%	2021
San Juan Capistrano	5.0%	15.0%	2020
San Marino	9.1%	17.6%	2021
San Ramon	30.5%	40.3%	2020
Santa Clara (City)	57.0%	57.0%	2021
Santa Rosa	58.8%	4.4%	2018
Sierra Madre	12.7%	17.4%	2021
South El Monte	4.3%	23.0%	2021
South Pasadena	6.3%	24.4%	2021
Temple City	14.0%	20.2%	2021
San Gabriel	6.5%	19.0%	2021
San Marino	9.1%	17.6%	2021
Sierra Madre	12.7%	17.4%	2021
South Pasadena	4.3%	23.0%	2021
West Covina	8.2%	19.0%	2021
West Sacramento	7.0%	21.0%	2017
Windsor	38.6%	73.4%	2017

\* 28.2% Effective Commercial Recycling rate increase due to 15% Franchise Fee applied to all services under New Agreement

## **FISCAL IMPACT:**

The term of the New Agreement is for fifteen (15) years, with extension options allowing for one (1) separate and sequential five-year term extension to the initial term. Per the terms of the New Agreement, City will receive:

- 15% Franchise Fee of gross revenues paid monthly on an ongoing basis (currently \$5.8M annually)
- \$300,000 one-time payment for SB 1383 support
- \$250,000 one-time payment for reimbursement for the cost of negotiations
- \$200,000 annual AB 939 Support Fee
- \$500,000 annual Vehicle Road Impact Fee
- \$870,00 annual Street Sweeping Fee, and
- \$100,000 annual Agreement Management Fee

The estimated fiscal impact on City is an increase of \$136,400 in net revenue when compared to the current franchise agreement.

A separate revenue account 1000.00.0000-51.2190 (Franchise Fees Garbage) is used to record monthly revenue including receipt of Franchise Fees from Republic by the City. Allocated costs which are solid waste related are not currently tracked by separate expense accounts. Hence all solid waste fees and revenue are currently paid into, and related expenditures are made from, the general fund.

## **OPTIONS:**

Reject the proposed New Agreement and negotiated terms with Republic. If rejected, as an alternative, City Council may direct staff to continue with Republic under the existing Agreement and either exercise the optional contract extensions at the appropriate time, or upon termination of the Current Agreement City staff could entertain formally soliciting competitive bids through a Request for Proposal (RFP) process and award to the most qualified bidder (based on criteria established by the City).

In order to solicit competitive bids, it would be necessary to allow approximately 12-18 months for its completion, dedicating 8-months for staff to pursue bids and include an additional 4-months for a transitional period should a new hauler be awarded the solid waste franchise agreement. With this option, the adoption of a new franchise agreement will occur well after the January 1, 2022, SB 1383 deadline and an amendment to the existing Agreement would be required.

## **ATTACHMENTS:**

Amended and Restated Franchise Agreement  
Proposed Rates