



# CITY COUNCIL AGENDA REPORT



**DEPARTMENT:** Public Works

**MEETING DATE:** April 17, 2012

**PREPARED BY:** Ron Bow, Director

**AGENDA LOCATION:** AR-2

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**TITLE:** Business Solid Waste and Recycling Program Update

**OBJECTIVE:** To seek further direction on the Business Solid Waste and Recycling Program related to the number of participating haulers

**BACKGROUND:** Recommendations for a new Business Solid Waste and Recycling program were presented at the December 20, 2011, City Council meeting. Discussions with the City Council regarding the need for a new solid waste and recycling program have been ongoing for several years in light of the Puente Hills Landfill closure set for October 2013, the City Council's five Solid Waste Planning Goals (long-term cost containment, long-term disposal assurance, commitment to waste diversion, quality customer service, and efficient franchise administration), the results of two program audits, the Environmental Accords goals to achieve increased waste diversion and reduce greenhouse gas emissions, and regulatory compliance (including Mandatory Commercial Recycling required by Assembly Bill 341). City Council approved the proposed program and authorized Staff to execute the non-exclusive franchise agreements with Arakelian Enterprises, Inc (dba Athens Services), Burrtec Waste Services, LLC, and Consolidated Disposal Service, LLC.

At the March 20, 2012, City Council meeting, further direction related to the Business Solid Waste and Recycling program was provided. Specifically, the December 20, 2012, motion was revised to:

- Allow the existing hauler/customer contracts to extend into the new program until the terms of the contracts expire.
- Remove any limitations to the terms length of the hauler/customer agreements (including evergreen clauses), as the franchise term would take precedence.
- Direct Staff to issue a written "Five-Year Notification" to the authorized haulers under Public Resources Code Section (PRC) 49520.
- Authorize Staff to include the changes above and execute non-exclusive franchise agreements with Arakelian Enterprises, Inc. (dba Athens Services; Burrtec Waste Services, LLC, and Consolidated Disposal Service, LLC).

**ANALYSIS:** Staff completed preparation of the non-exclusive franchise agreements with Arakelian Enterprises, Inc. (dba Athens Services), Burrtec Waste Services, LLC, and Consolidated Disposal Service, LLC (authorized haulers), and has also completed execution of the agreements with Athens Services and Consolidated Disposal Service, LLC. However, on April 6, 2012, the City received a letter (Exhibit A) from Burrtec Waste Services, LLC, stating they have chosen not to participate in the new Business Solid Waste and Recycling Program and will not be executing a non-exclusive franchise agreement with the City based on the program revisions made on March 20, 2012.

The Business Solid Waste and Recycling Program currently contain provisions specifying for three non-exclusive commercial solid waste and recycling haulers. Currently, only two haulers (Athens and

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Consolidated) have executed agreements. Based on this, Staff is requesting further direction to address the program's waste hauler opening.

Currently, Burrtec retains approximately 5 percent of the commercial market, approximately 29 of the 556 commercial accounts. Keeping the third authorized hauler preserves customer choice in haulers; however, given the small market share, it may be difficult for the City to attract another hauler to join the market. Additionally, if the City selects to recruit another hauler, time would be insufficient to conduct a bid process and execute a contract prior to the program's required start date of July 1, 2012.

Alternatively, the City Council may select to revise the program to provide only two authorized waste haulers, which are currently held by Athens and Consolidated. Consequently, Burrtec's customers would need to enroll with one of the two remaining hauler's service prior to July 1, 2012. Another option for City Council may be to leave the third hauler vacant until such time that City Council directs Staff to solicit filling the vacancy. The window of time selected for reinstating the vacant spot may be at the end of the initial agreement term or at any time in between. Although, this option allows the third authorized hauler position to remain viable for another hauler to participate in the current program, this choice would make it difficult, but not impossible, for any hauler selected to gain market share within the commercial sector of the community. In this scenario, Burrtec's existing customers would, again, need to subscribe to solid waste and recycling services from one of the two remaining authorized waste haulers.

**ENVIRONMENTAL IMPACT:** Haulers participating in the Business Solid Waste and Recycling Program will be required to achieve at least 50 percent waste diversion by offering a variety of recycling and waste diversion program options to their customers. The increased diversion activities will help the City towards fulfilling the State's requirements for reducing greenhouse gas emissions to 1990 levels by the year 2020 (AB 32) and towards three Monrovia Environmental Accords goals: reduce greenhouse gas emissions (Action 3), achieve 75 percent diversion to waste disposal by the year 2015 (Action 4), and implement "user friendly" recycling and composting programs (Action 6).

**FISCAL IMPACT:** Franchise Fees paid to the City under the new Business Solid Waste and Recycling Program are not expected to change as they are based on tonnages disposed and recycled rather than number of participating haulers.

**OPTIONS:** The following options are presented for the City Council's consideration:

1. Fill the third authorized hauler opening by either directing staff to
  - a. Conduct a competitive process by issuing a Request for Proposals (RFP) for participation in the Business Solid Waste and Recycling Program, or
  - b. Recruit a qualified solid waste and recycling hauler for participation in the Business Solid Waste and Recycling Program
2. Revise the existing Business Solid Waste and Recycling Program to allow only two authorized non-exclusive franchise haulers.
3. Elect to keep the third authorized hauler opening vacant until such time that City Council directs Staff to solicit filling this vacancy.

**RECOMMENDATION:** Staff recommends Option 3, electing to keep the third authorized hauler opening vacant until such time that City Council directs Staff to solicit filling this vacancy.

**COUNCIL ACTION REQUIRED:** If the City Council concurs, the appropriate action would be a motion to direct Staff to keep the third Business Solid Waste and Recycling Program authorized hauler opening vacant until such time that City Council directs staff to solicit filling this vacancy.



**BURRTEC**  
**WASTE INDUSTRIES, INC.**

April 6, 2012

Ms. Heather Maloney  
City of Monrovia  
Public Works Department  
600 S Mountain Ave.  
Monrovia, CA 91016

RE. Non Exclusive Commercial Solid Waste and Recycling Program

Dear Ms. Maloney:

Thank you for the opportunity to participate in the non-exclusive franchise program process. Burrtec sincerely appreciates your professionalism and perseverance during the research, development and pending implementation of the City's commercial solid waste program. It has indeed been a pleasure to work with you and the City during the past several years.

Given the significant change with the franchising program which will allow any existing hauler/customer service contracts to continue into the new program, a re-evaluation of Burrtec's participation given the very limited market share was necessary. Unfortunately, we cannot offer the quality service programs we demand for our customers under the new revised agreement.

As mentioned in our letter dated November 11, 2011 and again during subsequent discussions, many Monrovia businesses are bound by punitive, long term contracts that would restrict opportunities to expand our market share and offer the high quality services standards we require at the service rates submitted under the proposal and the addendum. The economies of scale under such a scenario are non-existent given the available customer base.

Rest assured that we will work with our current customers to assure a smooth transition into the new program and welcome the opportunity for consideration in the City's future residential or commercial solid waste and recyclables collection, processing and disposal needs. Thank you once again for the opportunity to participate in the process and to service Monrovia businesses.

Sincerely,

Richard Niño  
Director Municipal Services