



**City of Santa Ana**  
**20 Civic Center Plaza, Santa Ana, CA 92701**  
**Staff Report**  
**August 17, 2021**

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**TOPIC:** Exclusive Solid Waste Agreement

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**AGENDA TITLE**

Hold a Public Hearing to Adopt a Resolution to Approve an Exclusive Agreement to Athens Services for the Collection and Handling of Solid Waste for a Term of up to Eighteen years and Authorize a Proposition 218 Process (General and Non-General Funds)

**RECOMMENDED ACTION**

1. Hold a Public Hearing to adopt a resolution whereby the City Council awards a solid waste exclusive agreement to Athens Services.
2. Award an exclusive agreement for solid waste collection and handling services to Athens Services, subject to a Proposition 218 process, effective 30 days after Council approval, for a service provision term of ten years commencing on July 1, 2022 and expiring June 30, 2032, with a mutual option to extend for a period of five years, and a City option to extend for a period of up to thirty-six months, subject to non-substantive changes including clarification of sections 3.5 and 5.1.1 with respect to payment of fees approved by the City Manager and City Attorney.
3. Authorize and direct staff to prepare all required documents necessary to proceed with notification of proposed refuse rate adjustments in compliance with Proposition 218 requirements, including, but not limited to, the following:
  - a) Prepare and mail proposed rate adjustment notices to all Santa Ana property owners in compliance with Proposition 218 requirements at cost not to exceed \$100,000.
  - b) Schedule a public hearing at a future Council meeting, on or after September 21, 2021.

**DISCUSSION**

On March 24, 2020, the Public Works Agency released Request for Proposals (RFP) No. 20-097 for the Collection and Handling of Solid Waste Generated, Produced and/or Accumulated in the City of Santa Ana. The scope of work included services for residential, multi-family, commercial and industrial, construction and demolition, and other services.

These services will provide appropriate refuse collection and disposal for Santa Ana that considers recycling trends and compliance with State legislation.

Five proposals were received, with one proposer located in the City of Santa Ana. One proposal was disqualified and the remaining proposals from Athens Services, CR&R Environmental, Republic Services and Waste Management were considered. Each firm agreed to comply with the terms of the City's Solid Waste Services agreement and demonstrated that they had the necessary expertise to complete the required services. The firms' rates were reasonable and within industry standard and the team qualifications are appropriate for this project.

On February 16, 2021, City Council directed staff to negotiate with the four proposers and prepare four fully executed agreements (Exhibits 1-4) for Council consideration. On June 22, 2021, staff provided an update on the RFP process and presented details of the four proposals to City Council in a special Work Study Session. On July 20, 2021, City Council adopted a Resolution of Intent to award a solid waste exclusive agreement to one of the four proposers. Today's Council action adopts a resolution (Exhibit 5) whereby the City Council awards that agreement and authorizes a Proposition 218 process for the proposed refuse rate adjustments. The Proposition 218 hearing will be held this winter and new services will commence on July 1, 2022 (Exhibit 6).

The Executive Director of the Public Works Agency recommends award of the Exclusive Solid Waste Agreement to Athens Services as they had the lowest cost proposal and included substantial enhancements in their proposal. Athens Services proposed the lowest price throughout the term of the contract for the 42,000 residential customers with curbside service, with immediate savings of \$4.81 per month. Athens Services also proposed the lowest additional cart rate of \$4.39 per month, lowest senior/mobile home low-generator service rate of \$13.16 per month, lowest commercial cart service of \$85 per month, lowest 3-cubic yard temporary bin service of \$95 (not including disposal), lowest 3-cubic yard temporary bin service for construction and demolition debris (not including disposal), will perform Clean City Initiative Services with in-house staff, and had the highest customer satisfaction rating among all four haulers. Overall, City residents and businesses will pay the least to Athens for services similar to those proposed by the other firms.

In contrast to the other proposers, Athens Services offers ten free bulky item pickups per quarter per dwelling unit for apartments and condominiums, a total of 40 items per year per dwelling unit. Other firms have proposed unlimited bulky item pick up. Athens Services proposed the second highest pricing for multi-family residential service of \$597.21 and the second-lowest pricing for commercial service of \$449.88 (both include refuse, recycling and organics). Lastly, Athens Services employees are not represented by a collective bargaining agreement (labor union).

Proposers offered a variety of environmental leadership initiatives and agreed to comply with the requirements of the Department of Transportation, South Coast Air Quality Management District, and California Air Resources regulations. Additionally, all collection vehicles will be powered by natural gas and be model year 2021 or newer.

#### Outreach

Various in-person meetings were held with Santa Ana neighborhood associations (NA) to share a detailed Solid Waste Contract Residential Customer Impacts presentation. Staff met with Artesia Pilar and Flower Park NA, Com-Link, Downtown NA, Fisher Park NA, Floral Park NA, Washington Square NA, Willard Square NA, and Wilshire Square NA. Citywide community meetings were held virtually and in-person. A Solid Waste Contract Business Customer Impacts presentation was made virtually to the Environmental and Transportation Advisory Commission and virtually at a Citywide community meeting.

In reviewing the agreement, it was discovered that clarification is needed between Sections 3.5 and 5.1.1 to clarify the intention of the payment of fees. Franchise fees will be paid to the City monthly, and the remainder of City fees will be deducted monthly from the rates collected by the City and paid to the Contractor. The agreement will be revised accordingly. It is anticipated that all proposers will be in full agreement with these changes.

As State of California agencies, the Santa Ana Unified School District, Santa Ana College and others are not subject to the City of Santa Ana's agreement for solid waste services. These entities contract for solid waste services directly with service providers.

#### **ENVIRONMENTAL IMPACT**

Awarding a waste collection and hauling franchise contract is categorically exempt from the California Environmental Quality Act (CEQA) under Sections 15301, 15307, 15308 and 15061(b)(3).

Section 15301 of the CEQA State Guidelines for existing facilities consists of the operation, repair, maintenance, leasing, licensing, permitting, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of the existing or former use. For this project, which involves a contract award for collection and hauling of solid waste, no modifications to any buildings or other facilities are being made. The waste collection service is already being provided and awarding the new Franchise Agreement to a different operator does not expand or materially change the current operation. This project meets the criteria set forth in Section 15301 of the CEQA State Guidelines.

Section 15307 permits "actions taken by regulatory agencies as authorized by state law or local ordinance to assume the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the

environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption. Awarding a new franchise agreement is exempt from CEQA as an action by a regulatory agency taken to protect the environment and natural resources. The proposed project has been examined in the context of this Section and has been found to be consistent with these criteria.

Section 15308 of the CEQA Guidelines includes actions taken by a regulatory agency, as authorized by state and local ordinances, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment. The Integrated Waste Management Act (IWMA), Senate Bill 939, passed in 1989, regulating solid waste management requires cities to permit and regulate solid waste handling. Since that time, several subsequent bills have been passed. Assembly Bill 341, passed in 2011, requires both businesses that generate four cubic yards or more of solid waste and multifamily projects with five units or more to participate in a recycling program. Assembly 1826, passed in 2014, requires businesses, including public entities and multifamily projects, to recycle their organic waste. Businesses must develop strategies to reduce and/or arrange for recycling services for the following types of organic waste: food waste, food-solid paper, green waste, landscaping and pruning waste, and non-hazardous wood waste. Assembly Bill 1594, passed in 2014, mandates that as of January 1, 2020, the use of green waste or landscape waste as odor mitigation cover at landfills will no longer count as AB 939 diversion credit for a jurisdiction and will instead be considered disposal. Senate Bill 1383, passed in 2016, established methane emission reduction targets for California, requiring a 50 percent reduction of organics sent to the landfill by 2020, and a 75 percent reduction by 2025. Senate Bill 20, the California Electronic Waste Recycling Act of 2003, requires a retailer selling a covered electronic device in the state on and after July 1, 2024 to collect an electronic waste recycling fee from the consumer. The proposed franchise agreement requires the franchisee to comply with both State and local regulations for hauling and disposing of waste. The City's action ensures the protection of the environment since the agreement contains compliance requirements with State mandates.

Lastly, Section 15061 (b)(3) of the State CEQA Guidelines, known as the "common sense" exemption, is also applicable. Under Section 15061 (b)(3), activities of the City that will not result in direct or indirect physical changes in the environment may be exempt under the common sense exemption. The collection and disposal of solid waste is mandated and regulated by state law. The City is awarding a service contract to provide the City's waste collection and hauling service and such services already exist. Any selected franchise operator will be required to comply with the terms of this new franchise agreement and provide similar services to those currently being required and provided. The selected franchise operator will serve the same customers, public and private facilities, in the same manner as is done presently. The operator will also be required to comply with State and City regulations already established for the collection and hauling

of waste. The selection of the franchise operator is not an activity that would have a significant effect on the environment and, therefore, the activity is not subject to CEQA.

**FISCAL IMPACT**

The following table summarizes the annual fee revenue to the City in the proposed agreement, with a comparison to current fees received. Overall fee revenue would increase by approximately \$2 million, primarily related to the new Vehicle Impact Fee.

Item	Fund	Account	Current	Proposed
Residential Franchise Fee	General Fund	01102002-50056	\$1,851,500	
Commercial Franchise Fee	General Fund	01102002-50057	\$6,700,000	
Direct-Billed Franchise Fee (Multi-Family, Commercial, Roll-Off, Special Bins, Optional Services)	General Fund	01102002-50058		\$8,000,000
<b>Subtotal Franchise Fee</b>			<b>\$8,551,500</b>	<b>\$8,000,000</b>
NPDES Residential	Refuse Enterprise	06917002-53723	\$202,100	
NPDES Non-Residential	Refuse Enterprise	06917002-53724	\$947,300	
NPDES	Refuse Enterprise	06917002-53743		\$1,010,000
<b>Subtotal NPDES Fee</b>			<b>\$1,149,400</b>	<b>\$1,010,000</b>
Administrative Fee for Public Works	Refuse Enterprise	06917002-53742	\$2,000,000	\$2,326,800
<b>Subtotal Admin. Fee</b>			<b>\$2,000,000</b>	<b>\$2,326,800</b>
<b>NEW Vehicle Impact Fee</b>	<b>Street Construction</b>	<b>05917002-53729</b>		<b>\$2,266,666</b>
<b>NEW Clean Business Initiative Fee</b>	<b>TBD*</b>	<b>TBD*</b>		<b>\$50,000</b>
<b>GRAND TOTAL ALL FEES</b>			<b>\$11,700,900</b>	<b>\$13,653,466</b>

\* To be determined at the time of the development of the FY 2022-23 budget adoption.

The proposed franchise fee revenue to the General Fund is the greater of \$8 million or 17.3% of Athens Services direct billings for multi-family, commercial, roll-off, special bins and optional services, which are adjusted annually based on the Consumer Price Index

(CPI), Producer Price Index (PPI) and Orange County Landfill System per ton gate rate Consumer Price Index (CPI). The National Pollutant Discharge Elimination System (NPDES), Administrative, and Vehicle Impact fees will be adjusted annually based on the CPI.

The Vehicle Impact fee revenue will be dedicated to street repairs.

To cover costs incurred for preparing and mailing the Proposition 218 notices, \$100,000 has been budgeted and is available for expenditure in Fiscal Year 2021-22 in the Refuse Enterprise as follows:

<b>FISCAL YEAR</b>	<b>ACCOUNTING UNIT-ACCOUNT #</b>	<b>FUND DESCRIPTION</b>	<b>ACCOUNTING UNIT, ACCOUNT DESCRIPTION</b>	<b>AMOUNT</b>
2021-22	06917640-63001	Refuse Collection Service	Refuse Collection Service, Miscellaneous Operating Expenses	\$100,000
<b>TOTAL</b>				<b>\$100,000</b>

**EXHIBIT(S)**

1. Agreement with Athens Services <https://www.santa-ana.org/solid-waste/Athens-Services>
2. Agreement with CR&R <https://www.santa-ana.org/solid-waste/CR&R-Incorporated>
3. Agreement with Republic Services <https://www.santa-ana.org/solid-waste/Republic-Services>
4. Agreement with Waste Management <https://www.santa-ana.org/solid-waste/Waste-Management-of-Orange-County>
5. Resolution to Award a Solid Waste Franchise
6. Solid Waste Services Implementation Timeline

Submitted By: Nabil Saba, P.E., Executive Director – Public Works Agency

Approved By: Kristine Ridge, City Manager