

RESOLUTION NO. 2022-74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA APPROVING THE FOURTH AMENDMENT TO EXCLUSIVE FRANCHISE AGREEMENT FOR INTEGRATED SOLID WASTE MANAGEMENT SERVICES AND ADOPTING RATES FOR SOLID WASTE COLLECTION SERVICES

WHEREAS, Burrtec Waste and Recycling Services, LLC (“Burrtec”) provides solid waste collection services within the City of Coachella (“City”) pursuant to an exclusive solid waste franchise agreement; and

WHEREAS, on May 30, 2006, the City and Burrtec entered into an Exclusive Franchise Agreement for Integrated Solid Waste Management Services; and

WHEREAS, on May 27, 2009, the City and Burrtec entered into the First Amendment to Exclusive Franchise Agreement for Integrated Solid Waste Management Services; and

WHEREAS, on June 19, 2013, the City and Burrtec entered into the Second Amendment to Exclusive Franchise Agreement for Integrated Solid Waste Management Services; and

WHEREAS, on January 17, 2017, the City and Burrtec entered into the Third Amendment to Exclusive Franchise Agreement for Integrated Solid Waste Management Services; and

WHEREAS, since the approval of the original agreement and its amendments, California law changed to now require the City to implement additional solid waste diversion programs that were not included as part of the original agreement or amendments thereto; and

WHEREAS, as a result of regulations implementing Senate Bill 1383 (Chapter 395, Statutes of 2016) that took effect January 1, 2022, organic waste can no longer be disposed of in landfills and organic waste collection services must be provided to all residents and businesses; and

WHEREAS, the rate structure for the monthly solid waste service fees has two customer classes: (i) residential, and (ii) commercial; and

WHEREAS, the rate structure for refuse, recycling and organics collection is based on the container size, type of service, and frequency of collection; and

WHEREAS, the rate structure includes two components: 1) a service component and 2) a disposal component. The service component represents the costs for Burrtec to provide the solid waste services. The disposal component represents the costs charged by landfill facilities to dispose of the solid waste; and

WHEREAS, the City has determined that it is necessary to impose new, increased or modified rates for its solid waste service charges (collectively herein, the “Charges”); and

WHEREAS, the revenues derived from the Charges will not exceed the funds required to provide the solid waste services and shall be used exclusively for the provision of solid waste collection services; and

WHEREAS, the amount of the Charges will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition; and

WHEREAS, the Charges will not be imposed on a parcel unless the solid waste services

are actually used by, or immediately available to, the owner of the parcel; and

WHEREAS, article XIII D, section 6 of the California Constitution requires that prior to imposing any increase to the Charges, the City shall provide written notice by mail of the new or increased Charges to the record owner of each parcel upon which the Charges are proposed for imposition and any tenant directly liable for payment of the Charges (the “Notice”); and

WHEREAS, the Notice provides information about the amount of the rates for the Charges proposed to be imposed on each parcel, the basis upon which the rates for the Charges were calculated, the reason for the rate increases to the Charges, and the date time and location of a public hearing (the “Hearing”) on the proposed rate increases to the Charges; and

WHEREAS, pursuant to Article XIII D such Notice is required to be provided to the affected property owners and tenants not less than 45 days prior to the Hearing on the proposed rate increases; and

WHEREAS, the City mailed the Notice in accordance with Article XIII D and the Hearing was held on this day, July 27, 2022; and

WHEREAS, at the Hearing the City Council heard all oral testimony, and considered all written materials and written protests concerning the establishment and imposition of the proposed rate increases to the Charges, and at the close of the Hearing the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Charges from a majority of the record owners or property upon which the Charges are proposed for imposition or any tenants directly liable for the payment of the Charges (i.e., a customer of record who is not a property owner); and

WHEREAS, the City Council now desires to establish and impose the proposed Charges.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AS FOLLOWS:

SECTION 1. Recitals. The above recitals are all true and correct and are incorporated herein.

SECTION 2. The City Council hereby approves the Fourth Amendment to Exclusive Franchise Agreement for Integrated Solid Waste Management Services between the City and Burrtec, attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 3. The City Council hereby adopts the Charges for solid waste collection services at the maximum rates, effective August 1, 2022, as set forth in Exhibit B attached hereto and incorporated herein by this reference.

SECTION 4. For the fiscal year beginning July 1, 2023, and annually thereafter on July 1 through and including July 1, 2026, the maximum rates provided in Exhibit B shall be automatically adjusted based upon the annual percentage change January to January in the Consumer Price Index (“CPI”), All Urban Consumers for the Riverside-San Bernardino-Ontario, CA Metropolitan Area, as determined by the United States Bureau of Labor Statistics. However, the maximum CPI adjustment will be capped at 5% each year.

SECTION 5. For the fiscal year beginning July 1, 2023, and annually thereafter on July 1 through and including July 1, 2026, the maximum rates provided in Exhibit B shall be automatically adjusted for changes in tipping fees charged by landfill facilities. However, the maximum adjustment for the pass-through of tipping fees will be capped at 10% each year.

SECTION 6. To the extent any Charges established by this Resolution are inconsistent with any Charges previously adopted by the City Council, it is the explicit intention of the City Council that the Charges adopted pursuant to this Resolution shall prevail.

SECTION 7. The City Council hereby finds that the administration, operation, maintenance, and improvements of the solid waste collection system, which are to be funded by the Charges, are necessary to maintain solid waste services within the City's existing service area. The City Council further finds that such Charges are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the solid waste collection system. Based on these findings, the City Council hereby determines that this Resolution is statutorily exempt from the requirements of CEQA pursuant to California Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273(a). The documents and materials that constitute the record of proceedings on which these findings have been based are located at the Coachella Corporate Yard – 53462 Enterprise Way, Coachella, CA 92236. The custodian for these records is the City Clerk of the City.

SECTION 8. If any section, subsection, subdivision, sentence, clause, or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 9. This Resolution take effective immediately upon adoption.

SECTION 10. The City Manager or his or her designee is hereby authorized to take all actions necessary to implement this Resolution.

SECTION 11. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 27th day of July 2022.

Steven A. Hernandez, Mayor

ATTEST:

Angela M. Zepeda, City Clerk

APPROVED AS TO FORM:

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. 2022-74 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on the 27th day of July 2022, by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Andrea J. Carranza, MMC
Deputy City Clerk