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**Title:** Actions related to the First Amendments to the Service Agreements with Mid-Valley Recycling, LLC, and Cedar Avenue Recycling and Transfer Station, LP (Citywide):  
 1. Approve a First Amendment to the Service Agreement with Mid-Valley Recycling, LLC  
 2. Approve a First Amendment to the Service Agreement with Cedar Avenue Recycling and Transfer Station, LP

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**Attachments:** 1. Attachment 1-First Amendment to the Service Agreement with Mid Valley.pdf, 2. Attachment 2-First Amendment to the Service Agreement with CARTS.pdf, 3. Attachment 3- Service Agreement with Mid Valley Agreement.pdf, 4. Attachment 4- Service Agreement with CARTS.pdf

Date	Ver.	Action By	Action	Result
6/13/2019	1	City Council	continued	

**REPORT TO THE CITY COUNCIL**

**June 13, 2019**

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**SUBJECT**

Actions related to the First Amendments to the Service Agreements with Mid-Valley Recycling, LLC, and Cedar Avenue Recycling and Transfer Station, LP (Citywide):

1. Approve a First Amendment to the Service Agreement with Mid-Valley Recycling, LLC
2. Approve a First Amendment to the Service Agreement with Cedar Avenue Recycling and Transfer Station, LP

**RECOMMENDATIONS**

Staff recommends the City Council approve a First Amendment to the Service Agreement with Mid-Valley Recycling, LLC

(Mid Valley), approve a First Amendment to the Service Agreement with Cedar Avenue Recycling and Transfer Station, LP (CARTS) and authorize the Director of Public Utilities, or designee, to execute all documents on behalf of the City of Fresno (City).

## EXECUTIVE SUMMARY

On July 1, 2016, City Council adopted the Service Agreements (Agreements) with Mid Valley and CARTS (together, Service Providers) for the processing of residential recycling. The Department of Public Utilities proposes City Council approve the First Amendments to the Agreements with Service Providers. If approved, the First Amendments would revise the Service Providers' per-ton payment to the City to the proposed revised payments schedule, reflecting the downturn of the recyclables market; and revise the recycled fiber market index to the PPI Recovered Paper - Export Market Index, Mixed Paper (54) - Official Board Markets Los Angeles commodity designation, as the previously-named index is no longer operative.

## BACKGROUND

The City Council entered into Agreements with the Service Providers on July 1, 2016, for the processing of residential recycling collected by the City. The Agreements allowed the City to receive a revenue share of the materials processed and sold by both Service Providers with a minimum floor of \$1 per-ton. The Agreements were explicit in determining the floor of the recycling markets.

Since the origination of the Agreements, recycling markets have seen a sharp decline. This decline is due to the reduction of materials accepted by international markets. In 2018, the Chinese government implemented a series of waste import restrictions known as "National Sword", which limited or banned a variety of recyclable materials that had previously been accepted for processing. The restriction of the materials has created new challenges in the recycling industry since China was the largest market for recyclable materials. Other Southeast Asian countries have also imposed limitations or bans on these materials since China's implementation, causing the markets to significantly decrease. As a result, overall revenues from recyclables have plummeted due to depressed commodity prices.

This First Amendment was contemplated in the Agreements, which states that the Service Providers may submit a request for a price adjustment, along with documentation supporting the request, if the average monthly market price was less than \$70 for two consecutive quarters. The Service Providers provided such documentation for a period of four quarters, along with a request to revise the payments schedule for recyclables in light of the stagnant markets. The increase in the payments schedule needs to take place in the second quarter of this year to be in compliance with the Agreement.

City staff and the Service Providers met to identify the costs associated with the Agreements and established a new payments schedule, which allows for the Service Providers to receive compensation for processing the materials while still allowing for future flexibility for profit sharing with the City should the markets rebound. The proposed revised payments schedule in the First Amendment would cause the City to pay the Service Providers for recycling, as the Service Providers are not being compensated for recyclables collected at this time, and instead are incurring costs to handle the recyclable materials. If approved, payments to the Service Providers would occur in the second quarter of Fiscal Year 2019.

Additionally, this First Amendment revises the recycled fiber market index to the PPI Recovered Paper - Export Market Index, Mixed Paper (54) - Official Board Markets Los Angeles commodity designation. This revision is due to the elimination of the market index stated in the Agreement. The proposed market index is similar to the market index described in the Agreement.

City staff conducted a survey with surrounding municipalities to identify the trends that are they are experiencing within their own City. The Cities included in this survey were Visalia, Tulare, Bakersfield, San Diego, Selma, Santa Maria, Sacramento, Fremont, Los Angeles, and Clovis. The Cities of Tulare, Selma, and Clovis use outside haulers for their

residential recyclables, which does not allow for an apple to apple comparison.

Of the cities surveyed there were four that haul the recyclable materials within their city. Those cities are Visalia, Bakersfield, Los Angeles, and Santa Maria. Visalia and Bakersfield were willing to share the costs per ton for recyclable materials with City staff. The City of Visalia conveyed that they are currently paying roughly \$24 per ton for their recyclable materials to be processed, whereas 6 months ago they were being paid for their recyclable materials. This has resulted in roughly a \$30 per ton swing in costs. The City of Bakersfield shared that the city transports their materials and are currently paying \$55 per ton to one Municipal Recycling Center and \$90 per ton at the other. This is an increase of \$30 per ton as of April 1, 2019.

The City of San Diego contracts recycle collection services to IWS and Allan Company. From July 2017 to April 2018, the city was receiving \$17 per ton flat rate for recyclable materials in addition to a 50% revenue sharing of all revenues in excess of \$121.63 per ton. In May 2018, in response to the decline in the market, the City of San Diego suspended their flat rate as well as the revenue sharing from the contractors, resulting in a large revenue loss.

The City of Fremont contracts the solid waste and recycles collection service to Republic Services. However, in September, the City of Fremont added a \$1.50 recycling processing fee to the residents' monthly utility bill to help offset the costs of recycling related to the increased processing expenses and decline in the recycling market.

If the City does not meet the 50% diversion rates as mandated by AB939, CalRecycle has the authority under PRC 41850 to fine the City up to \$10,000 per day for non-compliance.

The City's Attorney's Office has reviewed the First Amendments and approved as to form.

## **ENVIRONMENTAL FINDINGS**

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378 this item does not qualify as a "project" and is therefore exempt from the CEQA Guidelines requirements.

## **LOCAL PREFERENCE**

Both processing facilities are within the City's limits, thereby meeting the local preference designation.

## **FISCAL IMPACT**

In Fiscal Year 2020, based on the current market value and the proposed revised payments schedule, the City anticipates an additional expense to the Solid Waste Enterprise Fund of approximately \$429,000 in total processing fees. The recycling processing fees can vary with the fluctuation of the recyclables market.

### **Attachments:**

Attachment 1 - First Amendment to the Service Agreement with Mid Valley

Attachment 2 - First Amendment to the Service Agreement with CARTS

Attachment 3 - Service Agreement with Mid Valley

Attachment 4 - Service Agreement with CARTS