



## Legislation Details (With Text)

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**Title:** Actions related to First Amendments to Commercial Solid Waste Franchise Agreements with Allied Waste Services and Mid Valley Disposal (Citywide):

1. Adopt findings of Class 1/Existing Facilities Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act
2. Approve a First Amendment to the Commercial Solid Waste Franchise Agreement with Allied Waste Services
3. Approve a First Amendment to the Commercial Solid Waste Franchise Agreement with Mid Valley Disposal

**Sponsors:** Department of Public Utilities

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment 1- First Amendment to the Commercial Solid Waste Franchise for Republic.pdf, 2. Attachment 2- First Amendment to the Commercial Solid Waste Franchise for Mid Valley Disposal.pdf, 3. Attachment 3- Commercial Solid Waste Franchise for Allied Waste Services.pdf, 4. Attachment 4- Commercial Solid Waste Franchise for Mid Valley Disposal.pdf

Date	Ver.	Action By	Action	Result
10/25/2018	1	City Council	approved	Pass

## REPORT TO THE CITY COUNCIL

**October 25, 2018**

**FROM:** MICHAEL CARBAJAL, Director  
Department of Public Utilities

**BY:** JERRY L. SCHUBER SR., Assistant Director  
Department of Public Utilities - Solid Waste Management Division

## SUBJECT

Actions related to First Amendments to Commercial Solid Waste Franchise Agreements with Allied Waste Services and Mid Valley Disposal (Citywide):

1. Adopt findings of Class 1/Existing Facilities Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act
2. Approve a First Amendment to the Commercial Solid Waste Franchise Agreement with Allied Waste Services
3. Approve a First Amendment to the Commercial Solid Waste Franchise Agreement with Mid

## Valley Disposal

### RECOMMENDATIONS

Staff recommends the City Council: 1) adopt a finding of Class 1/Existing Facilities Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act; 2) approve a First Amendment to the Commercial Solid Waste (CSW) Franchise Agreement with Allied Waste Services (Allied); and 3) approve a First Amendment to the Commercial Solid Waste Franchise Agreement with Mid Valley Disposal (Mid Valley), and authorize the Director of Public Utilities or designee to execute the First Amendments.

### EXECUTIVE SUMMARY

The Department of Public Utilities proposes Council approve First Amendments to the CSW Franchise Agreements with Republic and Mid Valley (together, Agreements). If approved, the First Amendments would extend the term of the Agreements by ten years to November 30, 2031; revise Republic and Mid Valley's (Franchisees') per-ton payment to the City for recyclables to \$0 per ton, reflecting the downturn of the recyclables market; remove ministerial Council approval of maximum permissible rates charged to CSW customers; remove the every-fifth year cost-based adjustments to rates to leave index-based adjustments to be applied annually; and revise the Public Education requirements to allow the Contract Manager to request waste audits, resulting in more focused education outreach in specific areas with accounts failing to comply with mandatory recycling ordinances and state law.

Additionally, the proposed First Amendments would give the City an option to administratively increase the Franchise Fee from 14.1% to up to 19.5% over the five years beginning in 2019, with no more than 1.5% increase annually, and clarify that fees increased by the City shall pass through to customers, so that 100% of increases are recouped from customers. The First Amendment with Mid-Valley also assigns its Agreement to Mid Valley Disposal, LLC, from Mid-Valley Disposal, Inc..

### BACKGROUND

In 2010 and early 2011, the City planned and developed CSW franchising, competitively procuring contractors Republic Services, formerly Allied Waste Services, and Mid Valley Disposal (together, Franchisees) and negotiating Franchise Agreements with the Franchisees. The Agreements set a ten-year term until November 30, 2021. In December 2010, the City Council approved the Resolution of Intent to award CSW franchises to the Franchisees, and Council approved the ordinance granting the franchises in January 2011.

The Agreements have resulted in environmental benefits to the community through a new rate structure, expanded customer service and outreach, and additional recycling and food waste composting services that encourage increased landfill diversion. Commercial customers receive increased services (particularly diversion related services) at reduced rates. The community also benefits from the City's collection of franchise fees, contract management revenue and free solid waste/recycling services estimated to generate approximately \$2.7 million annually that are used to support essential core services such as public safety and parks.

The proposed First Amendments would adjust the Agreements to align with economic changes,

refine the rate adjustment process to the most effective method, and otherwise ensure the success of the Agreements for the balance of an extended term to November 30, 2031.

The proposed terms of the First Amendments are as follows:

1. Change of language in the definition of “Customer” to mean the location being serviced and the customers at the physical location for the sake of outreach and education.
2. Amending the term of the Agreement extended by ten years from the expiration date of the initial term, to midnight of November 30, 2031.
3. Change of Public Education section to allow the Contract Manager to request waste audits, resulting in a more focused education outreach in specific areas with accounts failing to comply with mandatory recycling ordinance’s and state law.
4. Allowing the City Manager to administratively raise the Franchise Fee from 14.1% to 19.5% over five years beginning in 2019, in an amount not to exceed 1.5% annually.
5. Removing the per-ton payment to the City for recyclables collected. Changes in the markets have effectively damaged the value of the recycling stream and reduced the revenue received by both of the franchise haulers and the City of Fresno. Both haulers have requested relief from the required payments to the City (Mid Valley paid \$8/ton and Republic \$12/ton)
6. Revising the Rate Adjustment Process to Index Based Adjustments are used each year, and the Cost Based Rate Adjustments are deleted.
7. Revising the City Review of Application so the City Contract Manager reviews Franchisees’ proposed adjusted rates annually and then, rather than Council, the City Contract Manager approves the Maximum Permissible Rates.
8. Adding a provision that if the City establishes or increases City-imposed fees, the full amount of such fee will be passed through to Franchisees’ customers automatically.
9. The First Amendment to Mid Valley’s Agreement assigns the contract to Mid Valley Disposal, LLC, from Mid Valley Disposal, Inc.

## **ENVIRONMENTAL FINDINGS**

Staff has performed a preliminary environmental assessment of these projects and has determined they each fall within the Class 1/Existing Facilities Categorical Exemption set forth in CEQA Guidelines, section 15301 as both amendments involves using existing facilities, which will involve no expansion of the facilities. Furthermore, none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

## **LOCAL PREFERENCE**

Local preference is not considered because this rate increase is not an award of a construction or services contract.

## **FISCAL IMPACT**

This Council item will consent to the continuation of the City’s ability to collect franchise fees estimated to generate an increase of approximately \$2.1 million annually to support essential core

services such as public safety and parks.

**Attachments:**

- Attachment 1 - First Amendment to the Commercial Solid Waste Franchise Agreement for Allied
- Attachment 2 - First Amendment to the Commercial Solid Waste Franchise Agreement for Mid Valley
- Attachment 3 - Commercial Solid Waste Franchise for Allied Waste
- Attachment 4 - Commercial Solid Waste Franchise for Mid Valley Disposal