



CITY OF POMONA COUNCIL REPORT

November 21, 2022

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted by: Rene Guerrero, Public Works Director

Subject: **INTRODUCTION AND FIRST READING OF AN ORDINANCE
AWARDING AN EXCLUSIVE FRANCHISE AGREEMENT TO
ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES FOR
RESIDENTIAL AND COMMERCIAL SOLID WASTE, RECYCLABLE
MATERIALS, AND ORGANIC WASTE COLLECTION SERVICES**

RECOMMENDATION:

It is recommended that the City Council take the following actions:

- 1) Open the public hearing and after receiving testimony and public comment, close the public hearing and introduce, waive further, and give first reading of the following ordinance:

**ORDINANCE NO. 4323 - AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF POMONA, CALIFORNIA, AWARDING AN EXCLUSIVE
FRANCHISE AGREEMENT TO ARAKELIAN ENTERPRISES, INC. DBA
ATHENS SERVICES FOR RESIDENTIAL AND COMMERCIAL SOLID
WASTE, RECYCLABLE MATERIALS, AND ORGANIC WASTE
COLLECTION SERVICES; and**

- 2) Reject the bid protest submitted by Valley Vista Services as meritless, unless otherwise directed.

EXECUTIVE SUMMARY:

It is recommended that the City Council approve Ordinance No. 4323 (Attachment No. 1) awarding an exclusive franchise agreement to Athens Services for an initial 10-year term beginning July 1, 2023, with two optional 5-year renewals.

FISCAL IMPACT:

The Refuse Fund currently shows appropriations of \$13M and revenues of \$11.5M. With the award of an exclusive franchise agreement to Athens Services, a majority of the Refuse Fund revenues and expenditures will be eliminated, excluding certain costs that will remain and be absorbed by other City Operating funds. These other City Operating funds include the General Fund (\$1.1M) and Non-General Funds, such as the Water Fund, Sewer Fund, and several City Special Revenue Transportation Funds (totaling \$1.1M). However, the City will realize additional justified revenues that will offset the remaining costs and net additional revenues. Residential rates proposed by Athens Services are at \$35.50 in 2023, compared to the projected 2023 City rate of \$35.78 (8% CPI) in January 2023. Details of the fiscal impact are further described below:

Table 1 – Outsource Residential and Commercial Services:

Annual Ongoing Sources and Uses		
	General Fund	Non-General Fund
Estimated Commercial, Residential, Roll-Off & Outsourcing Fees ¹	\$ 5,419,000	\$ -
New Annual Funding for New Programs ²	\$ -	\$ 1,540,000
Use of Available Non-General Fund Balances	\$ -	\$ 785,000
Total Annual Revenue Sources	\$ 5,419,000	\$ 2,325,000
Personnel & Non-Personnel Expenses	\$ (1,108,000)	\$ (1,088,000)
Street Sweeping Savings	\$ 47,000	\$ 553,000
Illegal Dumping	\$ -	\$ (250,000)
Use of Annual Funding for New Programs ²	\$ -	\$ (1,540,000)
Total Uses of Revenue	\$ (1,061,000)	\$ (2,325,000)
Surplus (Shortfall) of Annual Sources to Uses	\$ 4,358,000	\$ -
Franchise Fees from Refuse Haulers ³	\$ 3,588,000	\$ -
Projected Franchise Fee Increase (Decrease)	\$ 770,000	\$ -
¹ Commercial (15%), Residential (10%), Roll-Off (15%) and Outsourcing Fee of \$1.1M		
² New Programs Include: Vehicle Impact Fee, Contract Administration Review, CalRecycle/Edible Food Fee, Housing Grants & Scholarships		
³ 21.5% of the 25% Franchise Fees from Refuse Haulers are recorded in the General Fund		

As detailed in Table 1 above, the General Fund is projected to receive \$5.4M in revenue. Continuing refuse-related expenses are projected to be \$1.1M. When you add the projected offset in street sweeping services, we project that the General Fund would net an estimated \$4.4M surplus. Compared to the current Fiscal Year (FY) 2022-23, the General Fund is projected to receive \$3.6M in Franchise Fee revenue from refuse haulers, so the new projections actually show that the General Fund would net an annual increase of \$770k. Furthermore, the City will receive one-time revenues of \$1.25M from the sale of City refuse equipment (trucks and containers), reimbursement of \$800k for street sweeping signage, and \$250k for procurement reimbursement.

Table 2 – In-House Residential Services

Annual Ongoing Sources and Uses		
	General Fund	Refuse Fund
Residential Rates (Increased by 45-50% to cover new costs)	\$ -	\$ 14,679,000
Commercial & Roll-Off Franchise Fees ¹	\$ 3,258,000	\$ -
Vehicle Impact Fee	\$ -	\$ 250,000
Contract Administration and Rate Review	\$ -	\$ 182,500
CalRecycle Compliance Fee	\$ -	\$ 125,000
Edible Food Recovery Fee	\$ -	\$ 150,000
Use of Available Fund Balance	\$ -	\$ 945,500
Total Annual Revenue Sources	\$ 3,258,000	\$ 16,332,000
Personnel & Non-Personnel Expenses	\$ -	\$ (13,014,000)
Street Sweeping Savings	\$ 47,000	\$ 553,000
New Staffing	\$ -	\$ (217,000)
Truck & Container Replacement (7 years)	\$ -	\$ (3,254,000)
Street Repair and Maintenance	\$ -	\$ (250,000)
Edible Food Recovery Program	\$ -	\$ (150,000)
Total Uses of Revenue	\$ 47,000	\$ (16,332,000)
Surplus (Shortfall) of Annual Sources to Uses	\$ 3,305,000	\$ -
Franchise Fees from Refuse Haulers ²	\$ 3,588,000	\$ -
Projected Franchise Fee Increase (Decrease)	\$ (283,000)	\$ -
¹ Commercial (15%), Roll-Off (15%)		
² 21.5% of the 25% Franchise Fees from Refuse Haulers are recorded in the General Fund		

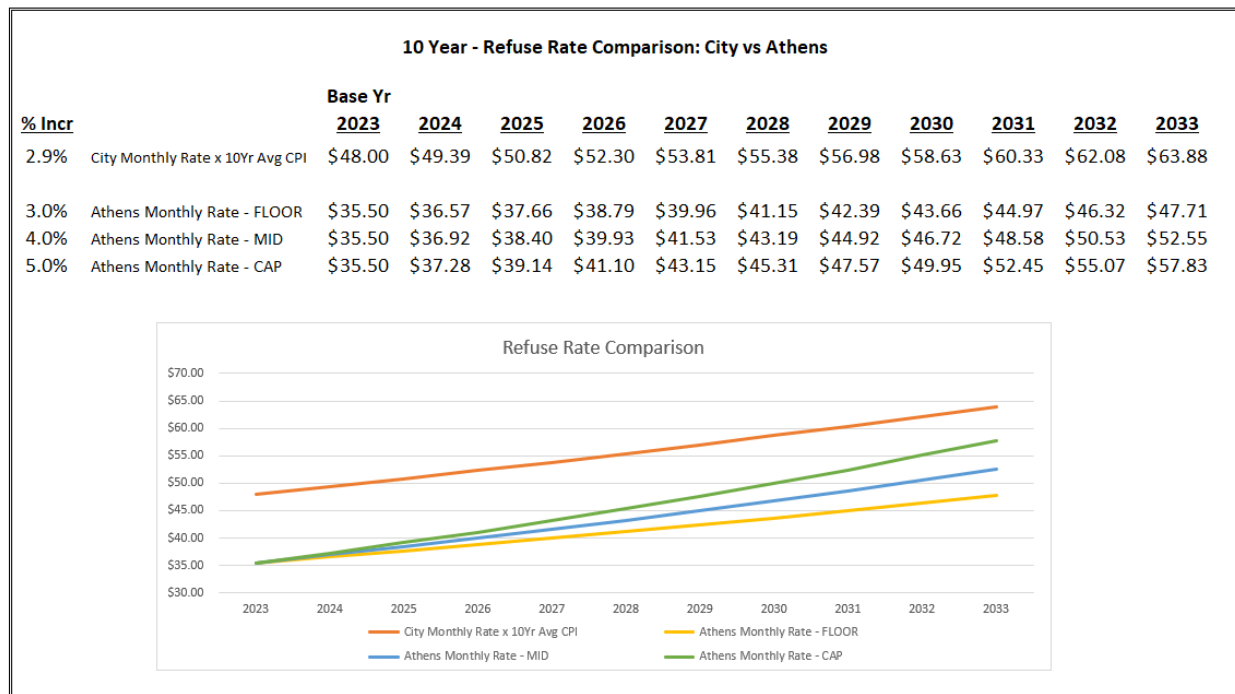
If residential refuse services remain in-house, as reflected in Table 2 above, the costs to operate the fund would need to rely on available Refuse Fund reserves, which currently are estimated at \$7.6M. This available reserve is not able to sustain the Refuse Fund in the long term, requiring assistance from the General Fund to continue to operate. The General Fund has been able to maintain a healthy reserve above the Policy requirement of 17% for the last several years. Per the 10-year forecast (provided by Urban Futures, Inc.), that was discussed with the City Council in April 2021, a fiscal cliff could occur with the sunset of the Measure PG Sales Tax Measure in 2029. As such, the General Fund should not be relied on to mitigate the Refuse fund. To avoid this, the residential rates charged to residents would need to be substantially increased between 45%-50% in 2023 (\$48-\$50 per month) to fill vacant and new positions, provide funding for new trucks, carts, and containers, as well as, to address SB1383 mandates.

It is important to compare the proposed residential rates between the outsourcing of residential and commercial services versus in-house residential services. Table 3 below shows a monthly rate comparison between the two options over the next 10 years. The City monthly rate begins at \$48 per month (the minimum necessary rate increase for in-house services) with a forecasted average increase of 2.9% each year. At Year 10, the forecasted monthly rate will be \$63.88. The 2.9% is

the average Trash CPI over the last 10 years, but it should be noted that the anticipated Trash CPI for 2023 is 8%.

For the outsourcing of residential and commercial services, Athens is proposing a rate of \$35.50 per month for 2023. The negotiated Franchise Agreement provides for predictable and stable rate adjustments by using the Trash CPI with a 3% floor and 5% cap. If using an average 4% CPI, the expected monthly rate at Year 10 will be \$52.55. Annual CPI rate adjustments will begin in July 1, 2024.

Table 3 – Rate Comparison



PUBLIC NOTICING REQUIREMENTS:

A public hearing notice was submitted to the Inland Valley Daily Bulletin and published on November 7, 2022 noticing the November 21, 2022 Public Hearing (Attachment No. 2).

PREVIOUS RELATED ACTION:

On January 6, 2020, an agreement was awarded to R3 Consulting Group, Inc. for a Solid Waste Rate and Cost of Service Study. On November 1, 2021, the City Council approved a Request for Proposals (RFP) process for a franchise agreement for exclusive collection, processing, recycling, and disposal of residential and commercial solid waste, recyclable material, and organic waste collection and adopted Resolution No. 2021-155 establishing process integrity standards. On December 6, 2021, the City Council reaffirmed their approval of the RFP process. On January 10, 2022, the City Council approved an amendment to the agreement between the City and R3 Consulting Group, Inc. to allow for additional work associated with preparing and administering the City's RFP process.

On October 17, 2022, City Council moved to approve the adoption of Resolution No. 2022-194 (Attachment No. 3) declaring its intent to award an exclusive franchise agreement to Arakelian Enterprises, Inc. dba Athens Services for the residential and commercial solid waste, recyclable materials, and organic waste collection services. Adoption of Resolution No. 2022-194 also enacted the setting of a future public hearing date to introduce a solid waste franchise ordinance to take place on November 21, 2022.

DISCUSSION:

The City Charter sets forth the procedures for entering into franchise agreements with providers of service(s) utilized by the City. Specifically, Pomona City Code Chapter 62, Article VI, Sections 62-741 and 62-742, sets forth the requirements and procedures for the award of franchise agreements for the business of collection, transportation, carrying, dumping, or depositing any solid waste upon any property located within the City. The City currently provides its municipal residential solid waste, recyclable materials, and green waste collection services and outsources its commercial solid waste operations. On November 1, 2021 and December 6, 2021, the City Council approved and reaffirmed, respectively, the RFP process for a franchise agreement for the exclusive collection, processing, recycling, and disposal of residential and commercial solid waste, recyclable material, and organic waste collection services.

Current Solid Waste Services

For its single-family residents, the City currently provides weekly curbside collection of garbage, recyclable materials, green waste, on-call bulky waste collection, and holiday tree collection. The City also provides illegal dumping abatement, while Athens provides street sweeping services. Additionally, the City has a contract with Valley Vista to provide supplemental bulky item pickup services. Officers Assisting the Homeless (OATH), providing homeless encampment cleanups, operated by City personnel from the Solid Waste Division and Police Department, will continue to be operated by the City of Pomona.

For multi-family dwellings and commercial customers, the City outsources the solid waste operations. Pursuant to City Charter Section 62-741, the City adopted Ordinance No. 4225 in 2016 to award a five-year non-exclusive franchise agreement to each of four haulers: Burrtec, Athens Services, Waste Management, and Valley Vista. Subsequently, on May 24, 2016, the City also provided the required 5-year notification to the haulers that the City Council voted to reserve the City's right to modify the current commercial solid waste non-exclusive franchise system and consider the implementation of an exclusive hauler system. The franchises expired on June 30, 2021, and have been extended through December 31, 2022.

Multi-family dwelling service recipients in the City currently receive weekly collection of bins for garbage and bins or carts collection for recyclable material, both based on volumetric need. The City's four contracted haulers must offer green waste collection services upon request. Commercial service recipients in the City currently receive carts or bins for garbage, and recyclable material, based on volumetric needs. Commercial collection service is provided to service recipients on a weekly basis, up to six (6) times per week.

New Solid Waste Regulations

Since the existing agreements went into effect, the State has passed several laws that significantly affect the processing of garbage, recyclables, and organic waste. In 2011, the State adopted AB341 requiring all businesses to recycle and jurisdictions to implement a commercial recycling program.

AB341 also established a goal of a 75% recycling rate (“diversion”) by 2020. AB1826, adopted in 2014, requires jurisdictions to implement an organic waste recycling program to divert organic waste collected from businesses and multi-family dwellings from landfills.

In 2016, SB1383 was passed, which was designed to keep organic waste from all sources, including residential dwellings, out of landfills. SB1383 also requires a state-wide target of a 50% reduction in organic waste disposal by 2020 and 75% by 2025. The regulations went into effect on January 1, 2022. Under SB1383, jurisdictions are required to provide organics services to all residents and businesses, establish an edible food recovery program, procure recyclable and recovered organic products, secure access to organics recycling capacity, and provide compliance monitoring enforcement.

As jurisdictions begin to implement SB1383, many local governments are facing challenges due to the COVID-19 pandemic and the lack of funding. In response, SB619 was signed into law to support local governments as they design and implement successful organic waste recycling programs throughout the state. The law authorizes CalRecycle, the state’s enforcement agency, to waive civil penalties if a jurisdiction, like the City, adopts a resolution and submits a plan to CalRecycle called a Notice of Intent to Comply (NOIC). With the timing of the City’s current franchise agreements expiration and the RFP process underway for a new franchise agreement, the City Council adopted a resolution on February 8, 2022 approving the preparation and submittal of a NOIC to CalRecycle. The NOIC is providing the City time to go through a competitive procurement process, and select service provider(s) that will implement many of the SB1383 required programs beginning July 1, 2023.

On May 26, 2022, AB1985 was passed, extending the timeline for cities to comply with SB1383 procurement targets. Local governments will have until January 1, 2025 to fully implement their city’s procurement requirements as long as the other conditions specified in SB 1383 are fully met.

2020 Performance Review & Rate Study

On January 6, 2020, an agreement was awarded to R3 Consulting Group, Inc. (R3) to conduct a Solid Waste Rate and Cost of Service Study (Study) for the City. The Study included an operational performance review of City-provided residential collection services, a vehicle impact fee study, and an analysis of the City’s current and future financial health of the Refuse Enterprise Fund.

R3 found that although the staff assigned to refuse operations within the Public Works Department, and the Fleet and Revenue Management Divisions, are experienced, dedicated, committed to customers, and generally operating as well as possible, it was evident that insufficient resources were constraining all refuse operations. R3 determined that if the City were to maintain municipal operations, significant investment was needed. At the time of the Study, a minimum 14% rate increase was anticipated to be required to address the projected FY 2020-21 budget shortfall (4%) and provide the necessary funding for a new residential collection fleet, required container replacement, and additional required staff positions (10%). That projected rate increase did not include any additional funding required to comply with AB341, AB1826, and SB1383 programs and services. The projected rate increase to comply with the mandated requirements of this legislation was 21% for a total initial rate increase of 35%. Ultimately, R3 recommended consideration of privatizing the residential collection operation in conjunction with the currently contracted commercial collection services (upon expiration of the current contract(s)) in one RFP packet to provide the City its best opportunity for a cost-effective solid waste system, with a targeted 10-year term with two optional 5-year renewals.

Competitive RFP Procurement Process

On November 1, 2021 and December 6, 2021, the City Council approved and reaffirmed its approval of the proposed RFP process for a franchise agreement for exclusive collection, processing, recycling, and disposal of residential and commercial garbage, recyclable material, and organic waste collection services. This allowed the City to issue the RFP. Approval of accompanying Resolution No. 2021-155 established process integrity standards that prohibited communication, gifts, or campaign contributions between prospective bidders and the Mayor or City Council prior to the award of an exclusive franchise hauler agreement.

Content of the RFP

It was very important to the City Council and staff that the waste haulers understand the intent of the services requested as part of the RFP. In considering the outsourcing of the City's residential and commercial solid waste services, the City is committed to continue to provide the community with an appropriate level of service at the highest quality while keeping the monthly rates that the residents pay as low as possible. The specifications contained within the RFP were designed to establish an effective, efficient, environmentally clean, uniform, and safe system of collection. The stated goals of the RFP and procurement process were as follows:

- Award a long-term franchise to a single solid waste hauler for all residential and commercial services;
- Contract with a solid waste hauler that engages with and is an active contributor to the community;
- Ensure compliance with solid waste legislation including AB39, AB341, AB1826, AB1594, SB1016, SB1669, and SB1383;
- Ensure compliance with other relevant State laws;
- Incorporate food waste collection in compliance with AB1826 and SB1383;
- Anticipate and flexibly accommodate future statutory changes;
- Maintain a high level of customer service for the least possible and reasonable cost while reducing residential customer rates;
- Ensure an opportunity for stakeholder input regarding new or additional solid waste services desired from the collection provider, including residential and commercial customers;
- Minimize service disruption through a smooth transition period if a franchise agreement is negotiated with a new provider;
- Utilize new technologies and/or methodologies to reduce the City's contribution to greenhouse gas emissions/climate change; and
- Retain all other provisions of the awarded franchise agreement.

The City further stated in the RFP that it is very interested in providing these services in the most sustainable manner possible, such as, but not limited to, providing the following:

- State-of-the-art collection services, data tracking, and management;
- Incorporating education and outreach programs to further the City's diversion requirements and goals;
- Educating residential and commercial customers on the benefits of diversion program participation; and

- Reducing air emissions and wear-and-tear on City streets, and environmental stewardship, including the use of local vendors and innovative “green” approaches to providing services.

Along with reducing wear-and-tear on City streets, it is also very important to the City Council and staff that every City street be swept.

Lastly, a critical element of the RFP and therefore, the waste hauler proposals, was that City employees displaced by the possible outsourcing of solid waste services be provided a smooth transition and assurances that their best interests remain a focal point of the procedures.

Displaced Employees

The City values its employees, and the decision to explore the outsourcing of the City’s solid waste services was difficult for the City Council and staff. As mentioned above, the only reason it was being considered was because of the potential significant rate increases that would be required to keep services in-house, along with the extensive new state-mandated requirements under SB1383.

In anticipation of releasing the RFP, the City negotiated Side Letters with the three impacted employee groups: the Pomona City Employees’ Chapter of the Teamsters Local 1932 (PCEA/Teamsters), the part-time General Unit (PTG), also represented by Teamsters, and the Pomona Mid-Management/Confidential Employees Association (PMMCEA). The Side Letter provided some key provisions:

1. Procedures for the City and the employee groups to discuss the decision and its impacts.
2. The RFP shall include advantages for proposers (such as additional consideration in the evaluation process) who provide the following:
 - a. Guarantee that all qualified employees who are laid off from the City as a result of the solid waste outsourcing will be offered employment with the new contractor. Such employees may be required to pass minimum requirements such as the DOT drug test and related procedures.
 - b. The proposer has a workplace that is already unionized or is willing to sign a labor peace agreement with Teamsters Joint Council 42 or another labor organization.
 - c. Full-time Solid Waste Drivers will have the option to maintain a route within the City of Pomona for a minimum of 12 months.
 - d. Honor all employee vacations that were pre-approved prior to the transition of services.
 - e. If the proposer’s rate of pay is less than the current rate of pay of the employee, the proposer agrees to grandfather the current rate of pay of the City of Pomona employees.
 - f. If the proposer is a non-union employer, the proposer pays for at least 80% of the medical premium for the employee and their family for benefit-eligible employees.

ANALYSIS:

New Solid Waste Franchise Agreement

The new Franchise Agreement (Agreement) for the Provision of Residential and Commercial Garbage, Recyclable Materials, and Organic Waste Collection Services was developed to preserve and maintain priority residential services currently provided by the City for its residents, as well as to consolidate multi-family and commercial services into one manageable contract while addressing the many challenges related to recent regulatory changes.

The Agreement was also designed to provide the ability for the City to award both residential and commercial services to one proposer. The City's consultant, R3, provided a draft agreement to address regulatory requirements, such as AB1826 and SB1383, and included the following key considerations:

- Providing residents with varying container sizes and rates for residential services;
- Expanding green waste to include food waste (organics) collection services to meet the requirements of SB1383;
- Updating container colors and labeling to meet the requirements of SB1383 (grey/black for garbage, blue for recycling, green for organics);
- Providing expanded education and outreach programs and services;
- Providing reports of customer subscriptions to determine compliance with the requirements of SB1383;
- Updated processing and diversion requirements;
- Providing for the procurement of recovered organic materials as required by SB1383; and
- Providing detailed tracking and reporting for SB1383 compliance.

The new Agreement includes bundled services (garbage, recycling, and organic waste) for all residential, multi-family, and commercial customers in order to achieve compliance with SB1383. All prior services provided to residents and businesses are maintained, with key provisions of the new Agreement including:

- 10-year base term beginning on July 1, 2023, and two extensions of five years each, at the City's sole discretion.
- New SB1383 services including:
 - Bundled rates, including minimum recycling and organics services, for all customers and green/organic containers to include the collection of food waste
 - New carts and newly painted bins to meet SB1383 color and labeling requirements
 - Residential kitchen food waste pails (City expense)
 - Outreach and education programs
 - Route audits and customer right-sizing to ensure adequate service levels through increased container size or frequency
 - Contamination monitoring
 - Reporting
 - Mulch or compost delivery to support procurement requirements
 - Support for edible food recovery program
- New or expanded services including:
 - Providing residents with varying container sizes (32gal, 64gal, and 96gal carts) and rates for residential services
 - Move-in/move-out residential collection service for flattened cardboard boxes
 - New residential home compost bins (up to 500/year provided by Contractor, but funded by City)
 - New code enforcement clean-up services
 - New document shredding drop-off events (four per year)
- Billing and fees including:

- Billing and collection responsibilities to shift from City to Athens
- Residential Franchise Fee payments of 10% of gross receipts
- Commercial Franchise Fee payments of 15% of gross receipts
- One-Time Fees:
 - Sale of City Equipment (trucks and containers) - \$1,250,000
 - Street Sweeping Signage - \$800,000
 - Procurement reimbursement - \$250,000 (due 30 days after the contract is signed)
- Annual Ongoing Fees (adjusted annually by CPI):
 - Outsourcing Payment - \$1,100,000
 - AB939 Fee - \$250,000
 - Administration Fee - \$350,000
 - Vehicle Impact Fee - \$750,000
 - Edible Food Recovery Support - \$150,000
 - Annual Rate Adjustment Reimbursement - \$15,000
- Annual Ongoing Donations:
 - Housing Effort Support - \$75,000
 - Children's Programming - \$75,000
 - Scholarships for Students of Environmental Studies - \$2,000 each for five (5) students
- Annual CPI Rate Adjustments will begin in July 1, 2024 with a cap of 5% and a floor of 3%
- Other terms, conditions, and services, including, but not limited to:
 - Grand Central Recycling and Transfer Station – The City's existing waste flow commitment to Grand Central Recycling and Transfer Station will be honored. The City will further retain the right to direct its waste flow at its sole discretion. In the event the City exercises this right beyond its existing waste flow commitments, potential changes in cost could result in marginal and proportionate changes to customer rates;
 - Creation of an Apprenticeship Program for the training of interested City residents in the solid waste trade;
 - Multilingual/TDD service (English and other City-directed languages);
 - Centralized local customer service pay location (TBD in advance of July 1 start date);
 - Use of low-carbon vehicles; and
 - Annual Recycling Awards (hauler to recognize customers identified as "Recycling All-Stars" at November City Council meetings).

Proposal Evaluation Process

On December 16, 2021, the RFP was posted on the City's bidding platform, Planet Bids, with a deadline for proposal submissions of February 21, 2022. Subsequently, through addenda, the proposal submission was extended through March 14, 2022. Proposals were received from the following three (3) solid waste haulers:

1. Arakelian Enterprises, Inc. dba Athens Services
2. Burrtec Waste Industries, Inc. (Burrtec)
3. Waste Management, Inc. (WM)

All three (3) proposals went through an initial “Pass/Fail” review to check for completeness and compliance with the proposal requirements and determine each hauler’s capability to service the City’s residents and businesses effectively. After the Pass/Fail review, where it was determined that all proposals passed, the proposals were then reviewed by the evaluation team consisting of City staff with guidance provided by R3. Proposals were reviewed and scored based on the following evaluation criteria:

- Qualifications
- Technical Approach
- Sustainability
- Service Rates

Following the evaluation of the proposals, the evaluation team conducted interviews of all three proposers on March 30, 2022. The purpose of the interviews was to gain more clarity on proposed actions by the haulers, verify that City RFP objectives were accounted for, and discuss the submitted proposal further. Following the interviews, the evaluation team visited the hauler’s respective sites to gain a better perspective on each of their facilities and operations. Interviews and site visits were scored based on the same evaluation criteria above.

Although not scored, each of the three haulers were provided an opportunity to present their company and services to the community via a virtual meeting and a separate in-person meeting.

After completion of the evaluation and scoring process, there was a consensus amongst the evaluation team with the ranking of the solid waste haulers, as follows: 1. Athens Services, 2. Burrtec, and 3. WM. The following table shows the scoring based on the evaluation criteria:

Table 1: Evaluation Scoring Results

<u>TOTAL</u> Evaluation Results (Points weighted)			
Evaluation Criteria	Athens	Burrtec	WM
Qualifications 15%	123	115	112
Technical Approach 25%	221	202	195
Sustainability 25%	220	199	201
Service Recipient Rates 35%	304	349	246
Union Workplace Bonus	-	-	50
Total	867	865	804

Please note that on November 14, 2022, Valley Vista Services submitted a letter to Staff protesting the City’s award of an exclusive franchise agreement to Athens Services (Attachment No. 4). The protest asserts that Valley Vista was disqualified from the RFP process based on an unconstitutional application of Section 7.23 of the RFP requiring written approval of the City’s Finance Director prior to any issuance of news/press releases. This provision of the RFP was intended to ensure an even playing field and to avoid any undue bias in an attempt to gain influence from the public. Staff informed the bidder that they were free to continue to submit their bid as the final review and disqualification would be handled by the City Council. Further, Valley Vista Services was unable to submit their proposal on time. They attempted to submit their proposal via

a sharelink file in clear violation of the RFP process, and therefore, was not accessed by Staff. Upon review by the Purchasing Manager and City Attorney, it was determined that the protest should be rejected as meritless based on the issues raised being unsubstantiated. We ask that City Council affirm the disqualification. However, if City Council does not accept Staff's recommendation to disqualify, then direction shall be given to further review the disqualification issues. Copies of all proposals submitted via PlanetBids are available for review, upon request.

Negotiated Terms and Conditions

The evaluation team recommended proceeding to negotiate a Franchise Agreement with Athens Services for both residential and commercial solid waste services based on key differentiating factors. The terms and conditions negotiated with Athens Services include, but are not limited to:

- Residential Rates - \$35.50/month for the first year. This is below the projected 2023 City rate of \$35.78.
- Commercial Rates - New bundled rates are comparable to or better than current rates.
- Multi-Family Dwelling (MFD) Rates – 5%+ lower than commercial rates.
- Annual Rate Adjustments – Predictable and stable rate adjustments by using the Trash CPI with a 3% floor and 5% cap.
- Transition – 2 years to provide new trucks and one year to provide new containers. In the interim, Athens Services will purchase and utilize the City's trucks and containers.
- New General Fund revenue - \$770,000 per year
- New street improvement funds - \$750,000 per year
- Other new revenues for new programs - \$175,000 per year
- One-time payment for the purchase of street sweeping signs for every City street - \$800,000
- Specific inclusion of "Community Composting" under the waste exemption clause of the Agreement on the condition that such groups provide composting weight estimations on a monthly basis to Athens for purposes of SB1383 compliance.

Upon commencement of the new franchise agreement and services, residents will have the opportunity to evaluate service needs and customize sizes of carts and bins to their specific needs. In addition, multi-family and commercial properties may adjust both container sizes and service frequency to "right size" their service to their specific needs.

In addition to the best overall combination of residential, commercial, and multi-family rates, demonstrated leadership in SB1383 and other regulatory compliance, and improved services and options for customers, Athens Services is providing the best incentives for displaced employees. Of note, Athens Services is offering a retention bonus of \$25,000 to all full-time employees and \$5,000 for all part-time employees displaced by the outsourcing of solid waste services and offered employment by Athens Services. A table comparing City benefits to those proposed by Athens Services for full-time employees is shown below:

	City of Pomona	Athens Services
Salary	5-step range w/ 5% increase after each 12-month period	Current rate of pay or better
Onboarding Bonus	N/A	\$25,000 for Full-time (FT); \$5,000 for Part-time (PT)
Pay Days	Bi-weekly	Every Friday
Health Insurance	City pays up to \$1,525/month for employee + 2 or more dependents	Athens pays 100% for Class 1 employee + dependents (FT); Athens pays 100% for Class 2 employee + 50% dependents (FT) ¹
Dental Insurance	City pays up to \$75/month	Paid by employee
Vision Insurance	Paid by employee	Paid by employee

If the City's solid waste services are outsourced to Athens Services, there will be positions eliminated in accordance with the provisions of the displaced employee's Memorandum of Understanding (MOU). However, as part of the Franchise Agreement, Athens Services is required to offer employment to these employees, and they may be required to pass minimum requirements, such as the DOT drug test and related procedures. For the City's full-time Solid Waste Drivers, they will be provided the option to maintain a route within the City for a minimum of 12 months. The City will pay out 100% of sick leave accrual for anyone displaced by the outsourcing and still in an active, paid status on the last day of City-provided service. Vacations that were pre-approved prior to the transition of service will be honored, as well.

There are 26 full-time positions and 15 part-time positions that will be impacted if solid waste services are outsourced. However, due to vacancies, retirement eligibility, and displacement rights, we anticipate 19 full-time employees and approximately 5 part-time employees may be impacted. Please note the table below for job classifications impacted if solid waste services are outsourced:

Job Classification	# of Positions	# of Employees
Solid Waste Crew Chief	1	1
Solid Waste Driver	18	16
Public Services Maintenance Worker I	1	0
Heavy Equipment Mechanic	2	0
Technical Specialist I (Part-time Solid Waste Driver)	3	0
Maintenance Worker I (Part-time)	12	5
Senior Customer Service Specialist I/II	1	0
Customer Service Specialist I/II	3	2
Total Impacted	41	24

Alternative – Retain City Solid Waste Services

Should City Council decide to retain its municipal residential collection operation, the City will still have to proceed with consolidating its current commercial/multi-family collection operations from four commercial haulers to one commercial hauler. Staff would proceed with requesting proposals from the three solid waste haulers who originally submitted proposals for both residential and commercial operations in an effort to reach an exclusive commercial-only franchise agreement.

¹ Other types of health benefits will be paid by employee.

If in-house services are retained, the City will have to immediately work towards filling currently vacant staff positions and new positions. Twenty-two (22) new solid waste trucks will have to be purchased/leased to replace the current fleet of old, worn-down trucks that are 3-4 years beyond their shelf life. Two new solid waste trucks, for a total of twenty-four (24), will need to be acquired to serve as spare trucks, as necessary. Routing audits will have to be conducted to update all subscription data. SB1383 support plans will have to be created, implemented, and maintained to achieve full compliance. Of most concern, the City Council will have to immediately implement a drastic residential rate increase of 45%-50% in 2023, increasing residential customer rates from \$33.13 per month to \$48-\$50. This rate increase would be necessary to account for anticipated budget shortfalls and to provide the funding for a new fleet of solid waste trucks for residential collection, required container replacement, and additional required staff positions. This projected rate increase will also provide necessary funding for efforts to comply with AB341, AB1826, and SB1383 programs and services. This projected rate increase is higher than initially anticipated due to inflation over the last 2-3 years. Retaining City solid waste services will have a negative impact on the General Fund as revenues will be reduced by almost \$300,000 per year.

Prepared by:

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Public Works Director

ATTACHMENTS:

Attachment No. 1 - Proposed Ordinance No. 4323
Attachment No. 2 – Notice of Public Hearing
Attachment No. 3 – Resolution No. 2022-194
Attachment No. 4 – Valley Vista Services Protest Letter