



CITY OF

NEWPORT BEACH

City Council Staff Report

January 11, 2022
Agenda Item No. 20

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Approval of Proposed Residential Solid Waste Collection & Recycling
Contract with CR&R Inc.

ABSTRACT:

The City of Newport Beach (City) currently has two residential solid waste hauling contracts with CR&R Inc. (CR&R). The first contract is known as the City Contract (C-5649), encompassing a majority of the community, with the exception of Newport Coast and Santa Ana Heights, which receives residential refuse service from the Costa Mesa Sanitary District. The second contract is known as the Newport Coast Contract (C-3942), which came with the annexation of the Newport Coast area from Orange County in 2001, and was amended in 2007. Both of the City's residential solid waste hauling contracts with CR&R have been in place for many years and would terminate on the date the new contract goes into effect, which is January 15, 2022, should the City Council approve the new contract.

The City's residential waste collection program must be modified in order to comply with recent changes in State of California (State) law associated with the collection, processing, and disposal of solid waste. Per these requirements, the residential solid waste collection program must include a three-cart, source-separated, collection program for solid waste, mixed recyclables, and organic waste recycling, defined as food waste and landscaping waste items, by January 2022. Therefore, staff is requesting City Council approval of a Residential Solid Waste Collection & Recycling Contract with CR&R that reflects the new, State-mandated program components and consolidates the City and Newport Coast Contracts under one agreement.

RECOMMENDATION:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Approve a new Residential Solid Waste Collection & Recycling Contract with CR&R to replace the two existing contracts (C-5649 & C-3942), beginning on January 15, 2022, at an initial monthly rate of \$24.08 per residential household (paid by the City) and a contract term of eight years with two optional one-year contract extensions.

DISCUSSION:

Background

State Assembly Bill 939 passed in 1989 and requires the City to divert at least 50 percent of its waste away from the landfills or face monetary penalties of up to \$10,000 per day. More recent legislation, including Senate Bill 1383, now requires cities to provide residential organic waste recycling services, which include programs to collect and divert food scraps and landscaping waste away from landfills.

There are currently two primary solid waste hauling contracts for the residential areas within the City, both of which are serviced by CR&R. The main City Contract that provides trash and recycling collection service for over 20,000 households has been in place since November 2013, when CR&R was selected after a competitive procurement process to take over the formerly City-operated residential refuse collection operation. The Newport Coast Contract, which provides trash and recycling service to over 4,000 households, has been in place since 2007. CR&R currently receives compensation from the City for residential collection in the amount of approximately \$5 million per year (a per household monthly cost equivalent to approximately \$13.63 for the Newport Coast Contract and \$15.55 for the City Contract). As identified under Section 6.04.140 of the Newport Beach Municipal Code, and associated with prior past practices, residents have not been charged any amount for residential refuse collection service. Residents served under the City Contract have paid a fee for required recycling services, but residents served under the Newport Coast Contract have not. The net contracted cost for residential refuse service is paid for out of the City's General Fund.

On November 24, 2020, the City Council was briefed on the new and pending State requirements, as well as the status of preliminary contract negotiations with CR&R. The City Council then directed staff to extend CR&R's current City Residential Solid Waste Contract (C-5649) to a new expiration date of October 1, 2021, and continue negotiations with the intent to consolidate both current contracts (City and Newport Coast) into a new, citywide Residential Solid Waste Collection & Recycling Contract that incorporates the necessary means and methods to cost effectively and efficiently achieve compliance with current and pending State mandates, laws and regulations. Staff completed the extension of the City Residential Solid Waste Contract (C-5649), resulting in both residential refuse contracts to conclude on October 1, 2021. These contracts were subsequently extended until January 1, 2022, and then again by the City to January 31, 2022, in order to complete the contract negotiation process.

After preliminary contract terms and cost negotiations were completed, the City's consultant, EcoNomics, and staff presented the two CR&R proposed contract rate options to the City Council at its January 26, 2021 meeting. The proposal included the following two rate options:

Option One – Fixed per household rate with annual CPI adjustments

This proposal was for a fixed (City paid) monthly per household rate of \$24.08 with an annual CPI adjustment. The contract included an eight-year term with two, one-year extension options. This option was a fixed rate and did not require further contract negotiations.

Option Two – Initial lower fixed per household rate, with a reconciliation of true cost and corresponding adjustment to new fixed per household rate in year three, with annual CPI Adjustments

This proposal was an initial monthly per household rate of \$22.69 with an annual 2% CPI adjustment for years 1 and 2, with reconciliation of the rate in year three. This option also included a monthly rate cap of \$26.31 per household associated with the year three reconciliation process to provide a safeguard against unknown upward costs.

The City Council determined that Option Two had too many unknown variables associated with compliance, reconciliation of data and costs, and further negotiations that had more risk of a larger rate increase in years three through eight. Option One was found to be a fair, competitive, market price that is in close proximity to recently bid residential refuse rates of similar Orange County cities. The Council then directed staff to continue negotiating with CR&R to secure Option One pricing, and draft a new residential contract at an initial monthly rate of \$24.08 per residential household, with annual CPI adjustments, and a contract term of eight years, with two, one-year extension options. Should the City Council approve the new agreement, it will commence on January 15, 2022, and run until December 31, 2029, with the ability to obtain two, one-year contract extensions that would allow the contract to run through December 31, 2031.

Proposed Contract

The proposed contract includes improved program efficiency, which will reduce impacts to residents through the incorporation of new and improved collection and processing methods. Further, the contract will provide required organic waste collection and recycling cart services in addition to the mixed recyclable cart services for all residents, bringing the City's refuse program into compliance with State mandates. The new contract combines both the Newport Coast and City residential collection franchise areas into a single service area. Key features of the proposed contract are as follows:

- CR&R will change service collection days for approximately 14,000 residential units to optimize routes, reduce truck traffic, reduce emissions, and provide timely collection routes that do not extend into the evening hours.
- CR&R will deliver a green-lidded organics recycling cart to every household in the City beginning January 31, 2022. This container, which will be collected weekly by CR&R, will accept co-collected landscaping and food waste, per State requirements. All residents will receive extensive outreach information prior to receiving the organics cart.
- CR&R will conduct door-to-door distribution of two-gallon kitchen pails to all households following distribution of the organics carts. Kitchen pails will include an organics recycling 'welcome' toolkit describing to residents how to participate in the program.

- CR&R will produce a training video for residents, as well as social media content, that can be distributed via the City's social media channels to inform residents of the new programs.
- CR&R will maintain an average fleet age of seven years with no vehicles older than 10 years. The City will receive eight, brand new collection vehicles in 2022, including four split-body rear-load vehicles that will be able to service recycling and organics waste carts in a single-pass to reduce disruptions to space-constrained neighborhoods on Balboa Island and the Balboa Peninsula. CR&R will phase in 11 more new vehicles by 2024, effectively replacing its entire existing fleet with new vehicles.
- All vehicles will be equipped with collision avoidance technology to alert the drivers of adjacent pedestrians and cyclists. CR&R will continue to observe exclusion zones around schools in the morning and afternoon during which they will not operate their vehicles near these locations.
- CR&R will provide a dedicated customer service line for Newport Beach residents and has committed to a maximum 90-second average customer hold time or it will face liquidated damages.
- Annual rate and fee adjustments will be limited to annual CPI inflation adjustments that will be capped at a 5% maximum each year.
- CR&R will replace all existing recycling and trash carts with newer carts by attrition to align color-coding with state-mandated color-coding requirements (new trash carts are granite with black lids, and new mixed recycling carts are granite with light-blue lids and decals, and new organics carts are granite with green lids and decals).
- There will be two, full-time recycling coordinators employed by CR&R for 18 months to provide residential outreach and education on the new collection cart system, do's and don'ts of the recycling programs, and reduction of materials contamination per SB 1383 requirements, as well as to ensure full residential participation. There will be one full-time recycling coordinator employed by CR&R for the remainder of the contract term after the initial 18-month transition process.
- CR&R will provide up to five, free bulky item pick-ups (with up to five items each) per household per year at no charge to residents.
- The existing household hazardous waste, sharps, and e-waste collection programs will continue.
- CR&R will provide extensive auditing, monitoring, and reporting of contamination as required by State law.
- CR&R will continue to provide monthly lease payments to the City to operate the City's transfer station.

A high-level timeline for contract implementation is included below. An extensive outreach campaign to residents, that includes digital and print touchpoints, will accompany this timeline to ensure residents are aware of the changes to the City's solid waste and recycling collection program.

- January 11, 2022 – requested City Council approval of new contract
- January 15, 2022 – contract effective start date
- February – March 2022 – CR&R to deliver organics recycling carts to all households
- April 1, 2022 – residents receive their first quarterly invoice from CR&R for any elected extra carts services (valet, extra bulky item pick-ups, non-containerized manual collection)

Volumes and Cart Sizes

This revised collection program will include the provision of up to 96 gallons of City paid for municipal solid waste (and appropriate desired cart(s) to accommodate this 96-gallon volume), up to two, 96-gallon recycling carts, and up to one, 96-gallon organics cart at no charge to residents. There will be three differing cart sizes available to residents, 32 gallons, 64 gallons, and 96 gallons. Residents will be able to choose the cart sizes that will work best for their individual refuse and recycling management needs. Requests for additional carts, beyond the free levels provided for by the City, will result in small, direct charges by CR&R. After an assessment of the number of current carts per resident is completed, CR&R will send a notice to all residents prior to February 15, 2022 to notify them of impending charges if they have more than the standard number of carts as outlined above. Residents may request that CR&R pick up their additional carts prior to being charged. There will be a grace period during which time any charges for additional carts will be withheld by CR&R until April 1, 2022, to allow for residents to adjust to the new service provisions included in the contract. The contract includes the option for the City to extend the grace period for the additional cart charges at the City's sole expense beyond April 1, 2022, if the City Council determines that residents need more time to adjust to the new programs.

Sorting Requirements

The new contract will also require that all waste and recycling materials be resident-sorted and placed within the appropriate collection carts so as to further automate the collection process. If a resident fails to place waste items within the collection cart, CR&R's driver must exit the cab and clean up any waste items on the ground or spilling over the brim of the container. Non-containerized and/or overflowing waste carts not only reduce the driver's efficiency, but they also increase program costs, reduce recycling of waste, cause water quality and vector problems, and aesthetic and wind-blown trash issues. As such, the contract includes a 'non-containerization' fee of \$2.47 for the second and subsequent instances of non-containerized materials over a six-month period to dissuade residents from overfilling their carts and to account for the loss of productivity from the driver. This fee was calculated based on the actual driver time needed to clean-up/pick-up non-containerized materials.

Extra Services

Currently, residents are allowed unlimited bulky item collection services at no charge. This new contract would limit free bulky item collections to five pick-ups (with up to five items each) per household per year. CR&R will charge the resident for the sixth and subsequent bulky item collections.

Door-to-door collection services for household hazardous waste will continue to be unlimited.

An additional auxiliary service that will be available to residents for a fee will be standard and premium valet services. Valet services, in space constrained areas of the city utilizing rear-loaded collection vehicles, will be considered standard if collection personnel have to move carts less than 15 feet from where the truck is stationed for service. This would apply typically where the cart is placed at the side of the house or behind a gate. In automated, side-load collection areas, anytime a driver has to dismount from the cab of the truck to service a cart that is not placed out by the curb, and is within 15 feet from where the truck is stationed, it will be considered standard valet service. CR&R has identified 9,967 households currently with standard valet service.

There will also be a premium valet service available to residents. This type of service is considered premium if a customer requests service of a cart greater than 15 feet from where the truck is stationed for service. This level of service is intended for customers that want carts moved from the garage, back yard or side yard, and the driver has to leave the cab to provide service. This service is more likely to be provided in the less constrained areas. CR&R has identified 29 households currently with premium valet service. The new contract will continue to provide valet service to disabled residents at no charge.

In total, per the proposed new contract, CR&R will direct bill residents quarterly for the following extra services:

EXTRA SERVICE	AMOUNT CHARGED PER MONTH
Extra Black Lid Trash Cart	\$6.09
Extra Blue Lid Recycling Cart (third+ cart)	\$3.41
Extra Green Lid Organics Cart	\$4.11
Standard Valet Service	\$8.30
Premium Valet Service	\$27.68
Non-containerized manual collection (charged for second and subsequent offense(s) in a six-month period)	\$2.47
Extra Bulky Item Pick-up (up to five items)	\$13.95

Contract Compliance

Strict compliance language was added to the new contract to further ensure contracted services levels, state requirements, and City expectations are met. These measures include clear language related to SB 1383 reporting requirements, improved education and outreach requirements, and liquidated damages for 55 specific instances of contractor non-performance. The list of categories for potential liquidated damages includes collection reliability, collection quality, responsiveness to customer, timeliness of report submission to the City, billing accuracy, required personnel, vehicles and equipment maintenance, and compliance and reporting audits as required by the State. Examples of the liquidated damages in the new contract include damages for non-collection of residents' carts, damages for failure to clean up waste, damages for failure to respond to a customer complaint within a timely manner, etc. The new contract also requires the contractor to distribute annual brochures to include images of carts, the kitchen pail, acceptable/unacceptable materials, special service information, information on how to use the kitchen pail program, use of compostable bags, a toll-free number, a link to the website, a link to a how-to video, extra cart charge information, containerization requirements, information on how to participate in special services (bulky items, sharps, e-waste, u-waste), information on the do's and don'ts of the organics program, information on different cart options, legislative requirements, etc.

Recycling and Organics Cart Distribution and Outreach

Under the current City contract, the use of mixed dry recyclable carts is voluntary (with over 75% on household currently participating). Under the new contract, resident sorting and use of mixed dry recyclable carts will be a mandatory requirement to comply with State law. To prepare for this change, mixed dry recyclable carts were recently distributed in October 2021 to the approximately 6,700 households that did not already have them.

SB 1383 requires that the new organics collection and recycling program be underway in January 2022. The City and CR&R have been working and planning to implement this program, with the new organics carts scheduled to be distributed to all households over an eight-to-ten week period starting January 31, 2022. Additionally, the door-to-door distribution of the organics program kitchen pail will occur following the organics cart roll-out. It is anticipated that the roll-out of the organics carts and pails will be completed by mid-April. In preparation for this roll-out, the City and CR&R have been providing information to residents to apprise and educate them of the new program. This has included frequent advisories and discussion at various City Council, Town Hall, HOA, and other community meetings; the introduction of eight displays throughout the city of the three carts and the kitchen pail with educational materials in December 2021; a mailer to all city residents introducing the program in December 2021; introductory information on the program in the Newport Navigator in November 2021; an in-depth program guide available at various locations in the city in December 2021 as well as mailed to all residents in mid-January 2022; and a letter alerting all residents to route changes in mid-January 2022. In addition, the City website was updated to include in-depth information on the recycling programs in December 2021.

Starting in November 2021, NBTv has included videos introducing and providing in-depth information on the program. Starting in December 2021, the City has also implemented a comprehensive recycling outreach communication program through its social media channels, including Facebook, Twitter and Instagram. All of the communications, including website updates, NBTv videos, and social media are on-going and will continue to occur to keep residents updated and to encourage participation in the recycling programs.

Program Costs

The current City Contract (C-5649), contains a monthly rate of \$13.63 per household, and the current Newport Coast Contract (C-3942) contains a monthly rate of \$15.55 per household for residential waste collection and recycling services. This results in a combined monthly cost of \$413,039, and a combined annual cost of \$4,956,471.

Under the proposed, new contract, the City Contract and the Newport Coast Contract have been consolidated into one, Residential Solid Waste Collection & Recycling Contract agreement with CR&R that incorporates the new programs, with a monthly rate of \$24.08 per household. This results in a monthly cost of \$651,083, and an annual cost of \$7,813,005. This would result in an initial increase to the City's total annual residential waste collection and recycling services cost of approximately \$2.9 million and would include implementation of a source-separated refuse, recycling and organic collection program that meets State mandates.

Staff is now requesting City Council approval of the proposed new residential contract with CR&R to replace the two existing Residential Solid Waste Collection & Recycling Contracts, beginning on January 15, 2022, at an initial monthly cost of \$651,083 (or approximately \$24.08 per residential household) and a contract term of eight years with two, one-year contract extensions.

Changes to Collection and Street Sweeping Days

If the new contract is approved, some residents will have their refuse and recycling collection day adjusted beginning in February 2022. The proposed collection day route changes are necessary to provide for the expanded recycling programs as well as provide collection service to residents in a more efficient and less disruptive manner. These changes will also help balance out loads to ensure all routes can be collected on time, increase safety by reducing the number of truck trips and the daily number of miles traveled by collection trucks, further avoid high traffic and congested areas, as well as reduce noise and truck emissions. Residents affected by the changes will be notified by the City and CR&R.

Further, as it is good practice to try to have the street sweeping day follow the refuse collection day, the changes in refuse collection days will also warrant some changes in the current street sweeping days. The street sweeping day changes, including changes to posted "No-Parking for Street Sweeping" will begin in late February after the refuse route changes have been made. The proposed street sweeping route changes are also included on the City Council's January 11, 2021 agenda.

FISCAL IMPACT:

The adopted budget includes sufficient funding for this contract. It will be expensed to the Residential Refuse Collection account in the Public Works Department, 0108051-851006. In anticipation of this contract amendment, staff budgeted for the increased costs during the FY 2021-22 budget process.

As noted above, the initial increase to the City's residential waste collection and recycling services will be approximately \$2.9 million per year. This increased cost for service will be partially offset by the \$1,361,000 increase in annual revenue associated with the updating of the City's Recycle Fee approved in March 2021. Considering this, the portion of the annual General Fund program cost increase that will not be offset by additional revenue is estimated to be approximately \$1,513,680, increasing by CPI in future years.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

This agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). Additionally, various announcements and public information outreach effort on this item have occurred as well as the City Council had significant discussions on this proposed new contract at their regular meetings on November 24, 2020 and January 26, 2021, to which City Council directed staff to prepare a new contract with CR&R to replace their two existing contracts.

ATTACHMENT:

Attachment A – Residential Solid Waste Collection & Recycling Contract