

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

161



SUBMITTAL DATE:
May 22, 2013

FROM: Waste Management Department

SUBJECT: Introduction and Approval of Requested Gate Fee Increase at Edom Hill Transfer Station

RECOMMENDED MOTION: That the Board of Supervisors:

1. Introduce the requested Gate Fee changes at the Edom Hill Transfer Station (EHTS) as proposed by Burrtec Recovery and Transfer in accordance with the Master Lease Agreement (the Agreement) related to operations at the EHTS and entered into on November 5, 2002; and
2. Set a date of June 25, 2013 for public hearing regarding the gate fee rate increase for EHTS; and
3. Direct the Clerk of the Board to advertise the public hearing through public notice for a minimum of fourteen (14) days pursuant to Section 5(d)(1) of the Agreement; and
4. Approve the requested EHTS gate fee increases at the close of the June 25, 2013, public hearing to be effective July 1, 2013; and
5. Approve Amendment No. 4 to the Agreement to reflect a reduction in operating days from seven (7) days per week to six (6) days per week, at the close of the June 25, 2013, public hearing to be effective July 1, 2013, and authorize the Chairman to execute the Amendment on behalf of the Board. (continued)

[Signature]
Hans W. Kernkamp, General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	No
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	12/13

SOURCE OF FUNDS: Not applicable	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *[Signature]*
Alex Gann

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is approved as recommended, and is set for public hearing on Tuesday, June 25, 2013, at 10:30 a.m.

Ayes: Jeffries, Stone, Benoit and Ashley

Nays: None

Absent: Tavaglione

Date: June 4, 2013

XC: Waste, COB

Kecia Harper-Ihem
Clerk of the Board

BY: *[Signature]*
Deputy

Prev. Agn. Ref: 12-2-11/5/02;
12.3 (5/23/06)

District: 4/4

Agenda Number:

12-2 C

FORM APPROVED COUNTY COUNSEL
BY: *[Signature]* 5/22/13
NEAL R. KIPNIS DATE
Departmental Concurrence

Policy Policy

Consent Consent

Dept's Recomm.:
Per Exec. Ofc.:

BACKGROUND: On November 5, 2002, the County entered into an agreement with Waste Management of the Desert (WMOD) to develop, construct, and operate a transfer station at the Edom Hill Landfill site once the landfill closed. The Edom Hill Landfill closed in November 2004, and the transfer station began operation at that time. WMOD sold their rights in the agreement to Burrtec Recovery and Transfer (Burrtec) in 2006.

The Agreement between the County and Burrtec as Lessee, states that gate fee adjustments are to be approved by the County Board of Supervisors following a public hearing. On April 8, 2013, Burrtec contacted the Waste Management Department to communicate their intent to request a rate increase as outlined in the Agreement. Pursuant to Section 5(b) of the Agreement, the Waste Management Department, on behalf of Burrtec, is presenting the request to the Board of Supervisors for action.

The gate fee at the Edom Hill Transfer Station is made up of four component parts. The recapture of the capital investment (i.e. the Facility Element) and the City Mitigation Fee are fixed by contract. The Disposal Fee element is based on the long-term hauling contract that Burrtec has with the County and is scheduled to be increased effective July 1, 2013. The Operating & Transport Element is the only component that Burrtec, Inc., can increase on an annual basis.

The maximum increase allowable in any one year is equal to 80% of the percent change in the CPI for all Urban Consumers for the Los Angeles/Anaheim/Riverside Metropolitan Area as published by the United States Department of Labor, Bureau of Labor Statistics for the twelve month period ended December 31 of the year prior to the July 1 effective date. For July 1, 2013, the percent increase in the Operating and Transport element of the gate fee, based on 80% of the change in CPI on December 31, 2012 is 1.55%.

In addition, Burrtec has requested an Extraordinary Rate Adjustment, as allowed for under the Master Lease Agreement, to the Operating & Transport Element due to the sharp increase in diesel fuel costs. Based on these increases in 2012, Burrtec requested an increase to the Operating and Transport Element of \$0.03 per ton and \$0.21 per ton, respectively (for a total of \$0.18 and \$0.24, respectively, when including the 80% CPI).

As an alternative, staff negotiated a lower overall increase using 100% of CPI to account for both the CPI and the diesel fuel cost increases (for a total of \$0.10 for Operating and \$0.12 for Transport). The proposed adjustments are summarized below:

Gate Fee Components	Gate Fee per Lease Agreement July 1, 2012	Increase based on 2012 CPI *	Extraordinary Rate Adjustment	Total Proposed Gate Fee effective July 1, 2013
Facility Element	\$0.89	N/A	N/A	\$0.89
Operating Element	\$5.39	\$0.10	N/A	\$5.49
Transport Element	\$6.34	\$0.12	N/A	\$6.46
Disposal Fee	\$26.92	\$0.52	N/A	\$27.44
City Mitigation Fee	\$ 1.00	N/A	N/A	\$ 1.00
Total:	\$40.54	\$0.74	N/A	\$41.28

Burrtec has also requested to be open Monday through Saturday only. Currently, they are open every Sunday from 1:00 p.m. to 5:00 p.m. This is primarily due to the low volume of customers they receive on those days (20 customers on average). A survey of Sunday customers was conducted and it was determined that 85% of those customers are able to use the facility Monday through Saturday, resulting in little to no impact to current service levels. A proposed amendment to the EHTS Master Lease, reflecting only the change in operating days, is attached and recommended for approval.

California Environmental Quality Act (CEQA) Findings

The proposed rate increase and lease amendment (Project) have been reviewed and determined to be exempt from CEQA under CEQA Guidelines Section 15061(b)(3), Section 15273 (Rates, Tolls, Fares, and Charges) and Section 15301(Existing Facilities). The proposed rate increase is for the purpose of meeting operating expenses, while the reduced operating schedule will not result in impacts beyond those previously assessed. A Notice of Exemption to this effect will be filed with the County Clerk upon Board of Supervisors approval of the Project.

* CPI increase for 2012 = $(236.042 - 231.567) / 231.567 = 0.0193$
Negotiated (100% of CPI) = 1.93% Contract Allowed (80% of CPI) = 1.55%

Amendment No. 4 To

The Edom Hill Transfer Station Master Lease

This Amendment No. 4 to the Master Lease is made and entered into this ___ day of _____, 2013, by and between the Riverside County Waste Management Department, herein called COUNTY, and Burrtec Recovery and Transfer, LLC, herein called LESSEE.

WITNESSETH:

WHEREAS, COUNTY entered into a certain MASTER LEASE with Waste Management of California DBA Waste Management of the Desert dated November 5, 2002 and said MASTER LEASE is for approximately 8.4 acres of land located in an Unincorporated area of Riverside County, California adjacent to the Edom Hill Landfill, referred to herein as the "Premises"; and

WHEREAS, the Premises are leased hereby for the exclusive purpose of providing the financing, permitting, design, construction and operation of a solid waste transfer station with materials recovery capability and other related uses (The Facility); and

WHEREAS, the MASTER LEASE was amended on December 7, 2004 to allow the then Lessee to adjust the gate fee to incorporate COUNTY's disposal rate increase at its landfills and to revise the Transport Element to identify the El Sobrante landfill as a Designated Disposal Facility to be consistent with the Agreement for Disposal of Solid Waste and establish the Transport Element to be the same for all three Designated Facilities; and

WHEREAS, the MASTER LEASE was also amended on May 23, 2006 regarding payment for special services and assigned to LESSEE as part of the same "Amendment and Assignment of Master Lease Agreement"; and

WHEREAS, the MASTER LEASE was also amended on September 18, 2007 to incorporate Parcel "B" (approximately 12 acres) and Parcel "C" (approximately 0.5 acres) for processing of green and wood waste at the facility and incorporate a waterline into the facility into the Master Lease in order to accommodate the new use; and

WHEREAS, the parties desire to amend said MASTER LEASE in order to reduce the number of Sundays required to be open per month due to low customer count on those days;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties have agreed as follows (NOTE: reference numbers refer to existing sections of the aforementioned MASTER LEASE):

1. Section 2 (b) of the MASTER LEASE dated November 5, 2002 is deleted and replaced with the following:

Use. LESSEE will operate the gate and maintain the two existing seventy-five foot electronically operated scales, and install and maintain additional scales as needed. The Facility shall be open, at a minimum, Monday through Saturday from 7:30 a.m. to 5:00 p.m. and shall not exceed operating days and hours as assessed under the California Environmental Quality Act. It will be closed on legal Holidays where a Riverside County Landfill is closed and not open to receive waste (New Year's Day, Memorial Day, Independence Day (July 4), the Sunday before Labor Day, Labor Day, Thanksgiving and Christmas). Station personnel will be onsite as needed for maintenance, repair, cleaning or other operational requirements.

2. Except to the extent specifically modified or amended hereby, all of the terms, covenants and conditions of the November 5, 2002 MASTER LEASE as amended December 7, 2004, May 23, 2006, and September 18, 2007, shall remain in full force and effect between the parties.

[Rest of this page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Amendment No. 4 to the MASTER LEASE to be duly executed on the day and year first above written.

RIVERSIDE COUNTY WASTE
MANAGEMENT DEPARTMENT
14310 Frederick Street
Moreno Valley, CA 92553


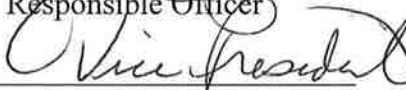
Burrtec Recovery and Transfer, LLC
41575 Eclectic
Palm Desert, CA 92260

Dated: 5/20/13

Dated: 5/21/13

RECOMMENDED FOR APPROVAL

By: 
Hans Kernkamp
General Manager-Chief Engineer

By: 
Responsible Officer
Title: 


RIVERSIDE COUNTY

By: _____
Chairman, Board of Supervisors

ATTESTED:

By: _____
Kecia Harper-Ihem, Clerk

APPROVED:

By: 
Neal Kipnis, Deputy County Counsel