

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER TO WAIVE ALL OR A PORTION OF THE CONTRACT DISINCENTIVES FOR THE RECYCLE PLUS HAULERS THAT DO NOT MEET THE CITY'S REQUIRED DIVERSION RATES FOR CALENDAR YEAR 2018 IF THE CITY MANAGER DETERMINES BY MARCH 1, 2019 THAT THE RECYCLE PLUS HAULERS CANNOT MEET THEIR REQUIRED DIVERSION RATES BECAUSE, DUE TO CHINA'S "NATIONAL SWORD" POLICY, THERE WERE NO REASONABLE ALTERNATIVES FOR DIVERTING RECYCABLES MATERIALS HISTORICALLY EXPORTED TO CHINA**

**WHEREAS**, the City of San Jose ("City") provides recycling and garbage services to more than 320,000 residential households from both single-family and multi-family dwellings through agreements with four service providers: GreenTeam of San Jose, GreenWaste Recovery Inc., Garden City Sanitation, and California Waste Solutions; and

**WHEREAS**, starting on January 1, 2000, the State of California has mandated the implementation of an Integrated Waste Management Plan that would result in the diversion of at least 50% of all solid waste from landfill through source reduction, recycling, and composting activities (See Cal. Pub. Resources Code § 41780.); and

**WHEREAS**, to meet the State's diversion standards, the City's contracts with GreenTeam of San Jose, GreenWaste Recovery Inc., and California Waste Solutions (collectively "Recycle Plus Haulers") for the processing of solid waste and recyclable material, and requires each of them, as part of their contracts, to meet certain minimum Diversion Standards; and

**WHEREAS**, to encourage the Recycle Plus Haulers to meet the City's Diversion Standards, each contract has a disincentive payment in some form that may be assessed as liquidated damages or as a deduction from the City's annual payment if the City's minimum Diversion Standards are not met; and

**WHEREAS**, an essential part in diverting solid waste from landfill is the export of recyclable materials to foreign markets, like China, for reuse; and

**WHEREAS**, the California Department of Resources Recycling and Recovery (CalRecycle), as of January 16, 2018, estimates that a third of all recyclable material generated in California annually is exported to foreign markets, and 62 percent of that total is exported to China; and

**WHEREAS**, per CalRecycle, China has historically been the largest importer of recyclable material; and

**WHEREAS**, in July 2017, China announced a policy called "National Sword" to limit the import of contaminated recyclable commodities and to increase inspections of recyclable commodity imports; and

**WHEREAS**, under China's "National Sword" policy, many recyclable materials are now banned and may no longer be imported; or must meet strict new contamination limits as a condition of import into China that, in certain cases, may be unachievable; and

**WHEREAS**, news articles report that China's "National Sword" policy has led to a significant decline in exports of mixed paper, cardboard, and plastics that has disrupted the global market for recyclable materials. (Tita, Bob. "Recycling, Once Embraced by Businesses and Environmentalists, Now Under Siege." *Wall Street Journal* 13 May 2018. [<https://www.wsj.com/articles/recycling-once-embraced-by-businesses-and->

environmentalists-now-under-siege-1526209200]; de Freytas-Tamura, Kimiko. "Plastics Pile Up as China Refuses to Take the West's Recycling." *New York Times* 11 Jan. 2018 [<https://www.nytimes.com/2018/01/11/world/china-recyclables-ban.html>]; Hook, Leslie and Reed, John. "Why the world's recycling system stopped working." *Financial Times* 26 Oct. 2018 [<https://www.ft.com/content/360e2524-d71a-11e8-a854-33d6f82e62f8>].); and

**WHEREAS**, China's "National Sword" policy is affecting the Recycle Plus Haulers ability to divert recyclable material from landfills, and is leading to the stockpiling of recyclable materials as they seek alternative markets that could potentially pose a threat to public health and safety; and

**WHEREAS**, the City recognizes that the current lack of available markets for one or more type of recyclable materials, in the short term, is the result of circumstances beyond the reasonable control of the Recycle Plus Haulers and the City; and

**WHEREAS**, in light of the China "National Sword" policy and its impact on the export of recyclable materials, this Council wishes to delegate to the City Manager the authority to waive all or a portion of the disincentives specified in the contracts with the Recycle Plus Haulers if by March 1, 2019 the Recycle Plus Haulers are unable to meet the City's minimum Diversion Standards;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The City Manager is hereby authorized to waive all or a portion of the disincentives specified in the contracts with the Recycle Plus Haulers for calendar year 2018 if the City Manager determines by March 1, 2019 that the Recycle Plus Haulers cannot meet the City's minimum Diversion Standard specified in their contracts because, due to

China's "National Sword" policy, there were no reasonable alternatives for diverting the recyclable materials they historically would have exported to China.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk