



T&E AGENDA: 06/03/19  
ITEM: c(2)

# Memorandum

**TO:** TRANSPORTATION AND ENVIRONMENT COMMITTEE

**FROM:** Kerrie Romanow

**SUBJECT: DIVERSION DISINCENTIVES REPORT**

**DATE:** May 23, 2019

Approved

A handwritten signature in blue ink, appearing to read "Kerrie Romanow".

Date

5-23-19

## RECOMMENDATION

Accept a report on the City Manager's decision per Resolution 78955 to waive a portion of the diversion disincentive owed by California Waste Solutions (CWS) for not meeting diversion rates in calendar year 2018 because of challenges marketing some recyclable material as a result of China's National Sword policy.

## OUTCOME

Acceptance of this update provides information on the City Manager's decision to implement a partial waiver of the 2018 diversion disincentive of \$262,562.08 owed by CWS.

## BACKGROUND

On January 15, 2019, City Council approved Resolution 78955 authorizing the City Manager to waive all or a portion of the contractor disincentive for not meeting the required diversion for calendar year 2018 if by March 1, 2019, the City Manager determined that the Recycle Plus contractors were unable to meet their required diversion rates because of China's National Sword policy. Environmental Services Department (ESD) staff's review of documents provided by CWS offered reasonable evidence that a decrease in marketable material was due to China's policy. Implemented in March 2018, National Sword restricts the imports of certain paper, cardboard, and plastics to China, the primary recipient of west coast recyclables for many years.

GreenTeam and CWS provide residential recycling services and failure to meet their diversion requirements results in reduced payments to the contractors. Per the CWS agreement, for each one percent below the diversion standard, the City deducts an amount equal to 0.5% of the prior calendar year payments. Diversion requirements, actual diversion, and CWS' historical disincentive deductions are shown below.

HONORABLE MAYOR AND CITY COUNCIL

May 23, 2019

**Subject: Waiver of Diversion Disincentive in Residential Waste Agreement and China's Policy**

Page 2

Year	CWS District A Diversion			CWS District C Diversion		
	Required	Actual	Disincentive	Required	Actual	Disincentive
2018	30%	23.8%	(\$143,308)	35%	25.5%	(\$238,509)
2017	30%	26.5%	(\$142,306)	35%	28.0%	(\$233,523)
2016	30%	26.1%	(\$137,545)	35%	28.3%	(\$228,733)
2015	30%	23.8%	(\$267,953)	35%	27.2%	(\$261,093)
2014	30%	23.7%	(\$270,737)	35%	26.7%	(\$305,784)
2013	30%	27.9%	(\$92,507)	35%	29.9%	(\$191,157)
2012	30%	30.6%	\$0	35%	33.6%	(\$37,281)
2011	30%	29.6%	\$0	35%	34.7%	\$0
2010	30%	30.4%	\$0	35%	34.9%	\$0

While other haulers met their diversion targets, on February 28, 2019, CWS submitted to ESD their initial information requesting a waiver of the diversion disincentive deduction. On various dates, ESD met with and requested additional supporting information from CWS. CWS submitted additional information on March 15, 2019 and March 29, 2019.

## **ANALYSIS**

Staff reviewed materials presented by CWS to assess how China's National Sword policy impacted their diversion in 2018. While it was not possible to determine the exact impact of National Sword, there was reasonable documentation that indicated a decrease in the marketability of CWS' recyclables due to the policy. In their February 28 submittal, CWS stated that they had to market certain paper and plastics at a lower grade level, and that they were unable to market some lower grade paper and plastics due to China's new restrictions. Year-over-year, CWS' total paper and plastic sales decreased by 11% from 2017 to 2018, which CWS asserted was related to National Sword. CWS provided correspondence with recyclables buyers demonstrating that allowable contamination levels for some materials were lower after China initiated its policy.

ESD staff reached out to San Francisco, Oakland, and Santa Clara County cities. None reported they were waiving penalties or relaxing contract standards due to China's National Sword policy. One city in the county had received a request to adjust rates to address the impacts of China Sword on the recycling market.

The City Manager made a determination to waive a portion of the 2018 diversion disincentives by calculating the disincentive using 2017 diversion percentages. 2017 was the year immediately preceding the National Sword policy and it was the year after CWS made improvements at their processing facility, so it was the best representation of where CWS diversion levels would be without the China restrictions. A fully calculated 2018 disincentive would have been \$644,378.52, and a fully calculated 2018 disincentive using 2017 diversion percentages is \$381,816.44; the difference amounted to the waiver of \$262,562.08. This

HONORABLE MAYOR AND CITY COUNCIL

May 23, 2019

**Subject:** Waiver of Diversion Disincentive in Residential Waste Agreement and China's Policy

Page 3

represented the best approximated impact of market changes on CWS from 2017 to 2018 due to the China National Sword policy.

Service District	Diversion Target	Standard Diversion Calculation		Diversion Calculation Using 2017 Diversion Rate		Waiver Amount
		2018 Diversion	Disincentive Deduction	2017 Diversion	Disincentive Deduction	
A	30%	23.79%	\$286,615.45	26.57%	\$143,307.72	
C	35%	25.48%	\$357,763.07	28.07%	\$238,508.71	
<b>Total</b>		<b>\$644,378.52</b>		<b>\$381,816.44</b>		<b>\$262,562.08</b>

### **EVALUATION AND FOLLOW-UP**

This was a one-time waiver applicable only to calendar year 2018 and to the current agreement.

### **PUBLIC OUTREACH**

This memorandum will be posted on the agenda for the June 3, 2019 Transportation & Environment Committee meeting.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

### **CEQA**

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/

KERRIE ROMANOW  
Director, Environmental Services

If you have any questions, please contact Valerie Osmond, Deputy Director, Environmental Services Department, (408) 535-8557.