

RESOLUTION NO. 2022-03-04
RESOLUTION OF THE SAN LUIS OBISPO COUNTY
INTEGRATED WASTE MANAGEMENT AUTHORITY
AMENDING THE ESTABLISHMENT OF SOLID WASTE MANAGEMENT FEES

WHEREAS, this Resolution rescinds Resolution 21-06-02, which was adopted on June 9, 2021, but not enacted; and

WHEREAS, this Resolution supersedes and replaces Resolution 07-03 (c) adopted on or about September 12, 2007, which established a solid waste management fee on any company that has an agreement with a government entity (including the County of San Luis Obispo, an incorporated city, or a district empowered to regulate or provide for solid waste collection) to collect garbage in San Luis Obispo County ("Company"). Resolution 07-03 (c) calculated the fee as follows: (1) two percent (2%) of the gross revenue collected from commercial customers; and (2) the solid waste management fee of \$0.30 per month for residential accounts charged less than \$50 per month and a 2% fee for residential accounts paying more than \$50 a month; and

WHEREAS, Section 5.2 of the Joint Powers Agreement granted the IWMA such powers that each Member could exercise separately; and

WHEREAS, the solid waste management fee provides the revenue to fund the reasonable and necessary costs incurred by the San Luis Obispo County Integrated Waste Management Authority ("IWMA") in the preparation, maintenance, adoption and implementation of the Countywide Integrated Waste Management Plan mandated by Section 40000 *et seq.* of the Public Resources Code, which includes, but is not limited to providing IWMA staff, operation of the county level of the State's Disposal Reporting System, operating the Household Hazardous Waste Facilities and other functions of IWMA; and

WHEREAS, Assembly Bill 341 (Chesbro, 2011) (Recycling of Commercial Solid Waste ("MCR")), Assembly Bill 1826 (Chesbro, 2014) (Recycling of Commercial Organic Waste ("MORe")), and Assembly Bill 827 (McCarty, 2019) were signed into law and established requirements for the diversion of organic waste generated by businesses and commercial solid waste recycling; and

WHEREAS, in 2016, Senate Bill 1383 (Lara, 2016) was signed into law and establishes methane emissions reduction goals of 50 percent in the level of the statewide landfill disposal of organic waste from the 2014 level by 2020, and 75 percent by 2025; and

WHEREAS, Senate Bill 1383 regulations require jurisdictions to implement an organic waste diversion program that includes providing organic waste collection services to businesses and residences, edible food recovery goals, public education and outreach, contamination monitoring and sampling activities, recordkeeping and reporting, organic and edible food recovery, infrastructure capacity planning, procurement of recovered organic waste products, and enforcement; and

WHEREAS, the IWMA will require additional funding to support the planning, programming, and implementation of the SB 1383 regulations and other mandates; and

WHEREAS, Public Resources Code section 42652.5 authorizes local jurisdictions to collect reasonable and necessary fees to recover the costs of implementing Senate Bill 1383 regulations and Title 14, Division 7, Chapter 3, Section 18991.1 of the California Code of Regulations and allows jurisdictions to fund compliance efforts through franchise fees, local assessments or other funding mechanisms; and

WHEREAS, Sections 41901 and 41902 of the Public Resources Code authorize the establishment and collection of a fee in order to fund the costs incurred by the IWMA in the preparation, maintenance, adoption and implementation of the Countywide Integrated Waste Management Plan mandated by Section 40000 et seq. of the Public Resources Code; and

WHEREAS, in order to fund statutory mandates approved by the State of California and regulations established by CalRecycle, this Resolution increases the solid waste management fee from 2% to 5.4% of gross receipts on any Company which has an agreement with a governmental entity that is an IWMA Participating Agency to collect garbage in San Luis Obispo County or possesses a permit issued by the County of San Luis Obispo, Division of Environmental Health pursuant to County Code Chapter 8.12.501.

NOW, THEREFORE, BE IT RESOLVED, that the San Luis Obispo County Integrated Waste Management Authority:

1. Participating Agencies.

The IWMA Participating Agencies include the cities within San Luis Obispo County who are Members of IWMA and special districts within San Luis Obispo County that possess solid waste management authority and who have executed or agreed to the terms and condition of the Joint Powers Agreement for the San Luis Obispo County Integrated Waste Management Authority.

2. Payment of Fees.

Effective July 1, 2022, any Company that has an agreement with a governmental entity that is an IWMA Participating Agency to collect garbage in San Luis Obispo County, or possesses a permit issued by the County of San Luis Obispo, Division of Environmental Health pursuant to County Code Chapter 8.12.501, shall be liable for the payment of the applicable solid waste management fee.

The solid waste management fee shall become due and payable on the 15th day of each month for the solid waste disposed of during the preceding month. Fees shall be deemed delinquent 30 days after they are due and payable and shall be subject to the late-payment provisions set forth herein.

Fees shall be made payable to the "San Luis Obispo County Integrated Waste Management Authority" and transmitted to the San Luis Obispo County Integrated Waste Management Authority, 870 Osos Street, San Luis Obispo, CA 93401, or at such address as the authority may

designate. Payment of fees shall be accompanied by 1) a statement from the Company specifying the gross revenue collected during the preceding month; 2) a form to be provided by the IWMA Executive Director to each hauler which includes the certification; and 3) the itemization of revenue collected by jurisdiction.

No acceptance of any payment shall be construed as an accord that the amount is in fact the correct amount, nor shall acceptance of payment be construed as a release of any claim the IWMA may have for further or additional sums payable under the provisions of this Resolution. All amounts shall be subject to audit, which if adverse to hauler with respect to any underpayment, shall be charged to hauler in addition to any interest owed as a late fee or interest as a delinquent payment.

3. Calculation of Solid Waste Management Fee and Finding of Fact.

For Companies with an agreement with a governmental entity for the collection of solid waste, recyclables or green waste that is an IWMA Participating Agency, the solid waste management fee shall be 5.4% of the gross revenue. The gross revenue collection amount, which is used to determine and calculate the amount of franchise fee required to be paid under the franchise agreement, shall also be used to determine the solid waste management fee.

Any Company that possesses a permit issued by the County of San Luis Obispo, Division of Environmental Health pursuant to County Code Chapter 8.12.501 and does not pay a fee under the above paragraph, shall pay a solid waste management fee that is 5.4% of the gross revenue collected from its customers which are located within the boundaries of IWMA Participating Agencies. Gross revenue shall include, but not be limited to, the cost charged to customers for items such as delivery, roll-off box rental, hauling service and disposal/recycling of the removed material.

The IWMA Board makes the following findings of fact: (1) statutory authority, including but not limited to Public Resources Code Sections 42652.5, 41901, and 41902 authorize local jurisdictions to collect reasonable and necessary fees to recover the costs associated with the implementation of this Resolution; and (2) the fees and costs identified herein are reasonable and necessary to support the funding of state mandates and further substantiated in the Countywide Integrated Waste Management Plan mandated by Section 40000 *et seq.* of the Public Resources Code, the "IWMA Solid Waste Management Fee Determination and Cost of Service Study" prepared by HF&H Consultants, dated January 7, 2022, the "SB 1383 Action Plan" prepared by HF&H Consultants dated March 2, 2022 and additional reports and information presented to the IWMA Board in considering this resolution.

4. Record Retention and Access to Records.

Each Company shall maintain records, information, and documentation that substantiate the gross revenue collected during each calendar month. The records, information, and documentation shall include the procedures the Company used to determine and measure the gross revenues collected. The Company shall maintain such records, information, and documentation for a period of three years from the date such revenue was collected. Upon receipt of a minimum of three business days' written notice from the IWMA Executive Director, the Company shall provide the IWMA

Executive Director with access for inspection and copying of all records, information, or documentation necessary to substantial gross revenue as provided by this Section.

5. Delinquent Solid Waste Management Fees.

In the event that any payment is not received within thirty (30) days after it is due, the Company shall pay interest on the outstanding balance at the rate of one and one-half percent (1.5%) per month from the date of Company's failure to pay.

6. Rescission of Previous Resolution.

This Resolution supersedes and replaces Resolution No. 21-06-02 adopted on June 9, 2021, and Resolution No. 07-03 (c) adopted on or about September 12, 2007. All ordinances, resolutions, or administrative actions by the IWMA Board of Directors or the Executive Director which are inconsistent with any provision of this Resolution are hereby superseded only to the extent of such inconsistency.

7. Effective Date.

This Resolution will be effective on July 1, 2022.

PASSED AND ADOPTED, this 9th day of MARCH, 2022, by the following roll call vote:

AYES: STANTON, HELLER, BURGESS, HAMON, MARK, NEWTON, Robert Bourbeau
NOES:
ABSTAIN:
ABSENT:

Charles Bourbeau
Charles Bourbeau, President

ATTEST:
[Signature]
Sasha Del Giorgio, Clerk of the Board

APPROVED AS TO FORM AND LEGAL EFFECT:
[Signature]
Jeffrey A. Minnery, Legal Counsel