Agenda Item

AGENDA STAFF REPORT

ASR Control 25-000806

MEETING DATE:	01/27/26
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	OC Waste & Recycling (Approved)
DEPARTMENT CONTACT PERSON(S):	Tom Koutroulis (714-834-4122)
	Robert Sedita (714-834-4418)

SUBJECT: Approve WISE, Organic Services and Disposal Fees and Rates Agreements

CEO CONCUR	**County Counsel Review**	**Clerk of the Board**
Concur	Approved Agreement(s) and Resolution(s)	Public Hearing 3 Votes Board Majority

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A **County Audit in last 3 years:** No

Levine Act Review Completed: N/A

Prior Board Action: 5/20/2025 #S87H, 12/15/2015 #50, 3/24/2009 #39, 6/22/2004 #3

RECOMMENDED ACTION(S):

1. Find that the subject project is Statutorily Exempt from the provisions of CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification**,** structuring, restructuring or approval of rates, tolls, fares and other charges by a public agency which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits, purchasing or leasing supplies, equipment or materials as set forth herein.

2. Conduct a Public Hearing.

3. Adopt the attached Resolution approving the Waste Infrastructure System Enterprise Agreement and Organic Services Agreement and update non-contract gate rates for disposal, organic processing and diversion services and other related charges at the County landfills and other related charges.

4. Authorize OC Waste & Recycling Director or designee to execute the agreements and make minor non-material edits as may be required without further Board approval.

SUMMARY:

Approval of the Waste Infrastructure System Enterprise Agreement and Organic Services Agreement for a ten-year term effective July 1, 2026, and updating Non-Contract Gate Rates and other charges will provide a dedicated waste stream from local jurisdictions and sanitation districts at competitive disposal rates and

ensure that OC Waste & Recycling receives sufficient revenue for the operation and maintenance of the County's Waste Infrastructure System.

BACKGROUND INFORMATION:

OC Waste & Recycling (OCWR) is responsible for managing Orange County's (County) solid waste disposal system. The system consists of three active regional landfill operations, three organic processing facilities, 20 closed solid waste disposal sites, and four household hazardous waste collection centers.

On April 8, 1997, the Board of Supervisors (Board) approved Waste Disposal Agreements (WDAs) for a contract term of 10 years (1997-2007) with local jurisdictions and sanitation districts whereby jurisdictional tonnage is dedicated to County landfills in exchange for stable and competitive disposal rates. On June 22, 2004, the Board approved the extension of the WDAs to June 30, 2010. On March 24, 2009, the Board approved WDAs for an additional 10-year contract term (2010-2020) and on December 15, 2015, the Board approved the First Amendment to extend the expiration date of the 2009 WDAs from June 30, 2020, to June 30, 2025. The WDA's included the free disposal of residential Processed Green Material (PGM) for use as Alternative Daily Cover (ADC) at County landfills, until the change in regulations with Assembly Bill (AB) 1594 and Senate Bill (SB) 1383 implementation in 2020 removed diversion credit for the material and redefined unprocessed organic material as regular waste. Under the WDA, contract rates are guaranteed to be at least 10% lower than those paid by non-contract customers, thereby ensuring that local jurisdictions receive the lowest available rate.

On May 20, 2025, the Board approved the Second Amendment to extend the term from June 30, 2025, to June 30, 2026, to provide additional time for the parties to complete negotiations regarding the successor agreement to the WDA referred to as the Waste Infrastructure System Enterprise (WISE) Agreement. Local jurisdictions and sanitation districts are also being offered new organic processing services (to assist them in meeting their SB 1383 organic diversion mandates) under an optional Organic Services Agreement (OSA). The majority of the language found in the WISE Agreement is carried over from the existing WDAs and includes the County's commitment to indemnify cities for all landfill related environmental liability.

WISE Agreement

The WISE Agreements being presented to the Board for consideration are the result of extensive negotiations between the County and the Orange County City Managers Association (OCCMA) Subcommittee which was tasked with negotiating on behalf of the cities and sanitation districts. The rates being proposed are based on the financial analysis and fee model conducted by OCWR's consultant Hilton Farnkopf & Hobson (HF&H). The proposed rates reflect OCWR's projected cost of operation, maintenance and infrastructure as well as the costs related to regulatory and legislative mandates, compliance with new CalRecycle diversion mandates and all other aspects of managing the Waste Infrastructure System. Rates are structured with automatic annual escalation based on the Consumer Price/Waste Industry Index (CPI) increases intended to ensure that revenue increases along with inflationary increases to the costs of managing the Waste Infrastructure System.

The Non-Contract Gate Rates being proposed also include flat rates for passenger vehicles and pickup trucks transporting waste for disposal and hard to handle material. These flat rates have not been increased since 2009 because they were not linked to the CPI. Therefore, OCWR is proposing increases to these flat rates with annual increases to match the CPI for the contract and non-contract gate rates.

The HF&H fee model resulted in proposed increases to the disposal rates and a new rate for processing of organic material under the OSA. The proposed rates for the WISE Agreement/OSA and Non-Contract Gate Rates include not only costs associated with operations of the County Waste Infrastructure System but increases associated with regulatory changes and increased diversion legislation such as SB1383, AB 341 and AB 1826. In addition, general operating and infrastructure costs over the past 16 years significantly increased and resulted in the need to increase our rates for both contract and non-contract customers. Because OCWR operates as a full cost recovery model, these associated increases are needed to meet the

overall operational costs for the agency, current waste system demands while planning for future demands on the waste system and continuing to meet current and future regulatory compliance.

The County proposed two options for jurisdictions to agree to regarding the WISE Agreement. Each option presented provides for an analysis allowing for adjustments to ensure appropriate cost recovery. These options are outlined below.

Option 1: $73/ton in year 1, and then increasing by CPI every July 1st in subsequent years.

Option 2: Phased-In Approach (Year 1: $67/ton, Year 2: $74/ton, Year 3: $81/ton, Year 4: Rate + CPI)

The County provided these options to the OCCMA Subcommittee to present to OCCMA and the sanitation districts which take part in the WDAs. Additionally, both options continue the revenue sharing from imported waste delivered to the County's solid waste disposal system with the jurisdictions taking part in the WISE Agreement. Based on the options presented, the Option 2 Phased-In Approach was selected as the approved WISE Agreement rate structure. The Option 2 rate will allow for a phased increase in rates within the County over three years, while providing OCWR the revenue to continue its operations and programs to meet its regulatory requirements, resulting in a stable landfill system to the residents of Orange County. Additionally, Option 2 continues the revenue sharing from imported acceptable waste received by the County as outlined within Section 3.6 (F) of Attachment A, with jurisdictions participating in the WISE Agreement.

Organics Services Agreement (OSA)

In addition to the disposal of waste, the WISE Agreement had originally included organics processing for jurisdictions to take part in and deliver preprocessed organic waste to the County's organic facilities. OCWR-produced compost and mulch are high quality products that have received US Composting Council's STA Certification as well as **OMRI Listed®** by the Organic Materials Review Institute, which is certified for use in organic farming and gardening under the USDA National Organic Program.

Following review and discussion with the OCCMA Subcommittee, it was requested by the Subcommittee that organic services be separated from the WISE Agreement. Per the request, OCWR drafted an optional OSA for interested jurisdictions. The OSA allows jurisdictions to bring preprocessed organic waste to OCWR organic facilities for processing and diversion at a guaranteed rate. The HF&H rate model assessed costs for organics operations and required infrastructure and is proposing an Organic Contract Rate of $67 per ton. Additionally, under the OSA, jurisdictions and their residents are entitled to receive free STA Certified bulk compost and mulch which will assist participating jurisdictions in meeting their SB 1383 Recovered Organic Waste Procurement requirements. Jurisdictions and other non-contract customers that choose not to participate in the OSA, will be able to purchase finished compost and mulch at market rates set by the OCWR Director.

A separate Commercial Non-OSA Organic Processing Rate, is also being proposed for non-contract commercial customers who bring organic waste to the landfill. It is anticipated that much of this organic waste will be unprocessed or not meet the OSA preprocessed standard and will necessitate that OCWR staff and infrastructure be used to chip, grind and process the material to the organic material specifications found in the OSA so that it can be incorporated into our greenery operations and turned into finished compost, mulch and other organic products. As a result, the Non-OSA Processing Rate is the same as the Non-Contract Gate Rate.

Lastly, in addition to high-quality compost and mulch in bulk form, OCWR provides bagged material and compost wattles. OCWR continues to see increased demand for bagged and wattle material from within and outside of Orange County. While bagged and wattle material provide an additional outflow market for OCWR organics material, the process of filling and palletizing these orders is labor intensive. OCWR is requesting Director authority to establish market driven rates for its finished organic products (to be charged to jurisdictions and other customers that do not enter into the County OSA) as well as the establishment of an order cancellation fee to limit cancelled orders. Revenue from the sale of organic products will be reinvested in the Waste Management Enterprise Fund and used to offset OCWR's organics programs, expenses and increase diversion efforts to conserve landfill airspace.

A summary of the Rate Adjustments and actions found in the proposed Resolution is as follows:

	2025 Rate	2026 Proposed Rate
WISE Agreement	$43.76/ton	Year 1: $67/ton Year 2: $74/ton Year 3: $81/ton Year 4: $81/ton + CPI
Non-Contract Gate Rate: Per-ton fee for vehicles carrying more than 880 pounds *(Rate includes $19.00 AB 939 Surcharge approved by the Board in 2006, see Resolution No. 06-070)* *(*CPI starts in Year 4 and is based on estimated 3% CPI via the following formula: Contract Rate + CPI + 10% of Contract Rate + $19 AB 939 Diversion Surcharge)*	$67.76/ton	Year 1: $92.70/ton Year 2: $100.40/ton Year 3: $108.10/ton *Year 4: $110.77/ton
Organic Services Agreement (OSA)	N/A	$67/Ton + CPI
Commercial Non-OSA Organic Processing Rate	N/A	Follows Non-Contract Gate Rate
Auto Flat Rate: Autos, passenger minivans, SUVs *(Loads weighing less than 360 pounds.)*	$5.00	$15.00 + CPI
Truck Flat Rate: Pickup trucks, utility vans, cargo vans *(Loads weighing less than 880 pounds.)*	$20.00	$30.00 + CPI
Hard-to-Handle Fee: Additional fee for hard-to-handle items longer than six feet *(examples: pieces of wood, furniture, mattresses, etc.)*	$5.00/ton	$15.00/ton + CPI
Organics Material Order Cancellation Fee (per pallet)	N/A	$50.00 + CPI
Non-OSA Finished Organic Product Charge	N/A	Market Price as set by Director

Note: With the exception of the phased in rates for the WISE Agreement and non-contract gate rates, all other rates will increase by CPI starting July 1, 2027.

Upon Board approval, OCWR will formally execute WISE Agreements and OSAs with interested Orange County cities, Sanitation Districts and the Facility Operators. Per the terms of the WISE Agreement, Orange County cities, Sanitation Districts, and Facility Operators have until April 30, 2026, to execute the WISE Agreements. The County reserves the right to increase the contract rate by 10% for any agreement executed after the April deadline. Any jurisdiction that chooses not to execute an Agreement with the County will be required to pay the posted non-contract gate rate, which includes the additional $19 AB 939 diversion surcharge approved by the Board in 2006.

Compliance with CEQA: The subject activity is statutorily exempt from review under CEQA pursuant to Section 21080(b) (8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification of rates fees and charges which are for the purpose of meeting operating

expenses, including employee wage rates and fringe benefits, purchasing or leasing supplies, equipment, or materials.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Waste Infrastructure System Enterprise Agreement (City/Sanitation District)
Attachment B – Waste Infrastructure System Enterprise Agreement (Facility Operator)
Attachment C – Organic Services Agreement
Attachment D – Resolution of the Board of Supervisors of the County of Orange approving the Form of the Waste Infrastructure System Enterprise and Organic Services Agreement and Establishing the Contract Rate and Non-Contract Gate Rates