

**CITY OF LOS ANGELES  
INTER-DEPARTMENTAL CORRESPONDENCE**

**DATE:** March 1, 2023

**TO:** Honorable Council

**FROM:** Barbara Romero   
Director and General Manager  
LA Sanitation and the Environment (LASAN)

**SUBJECT: RECOMMENDATIONS ON THE CONTINUANCE OF THE REMOVING BARRIERS TO RECYCLING (RBR) DETAILED IN THE RECYCLA CONTRACT AMENDMENTS (CF 19-0170)**

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On March 20, 2019, the City Council approved a settlement agreement and contract amendments to recycLA contracts, resulting from a dispute regarding the application of certain extra service charges (Council File 19-0170). Among contract changes, the approved amendments established the Removing Barriers to Recycling (RBR) program. The RBR is a joint, City and recycLA Service Providers (RSPs), funded program designed to encourage blue bin recycling by removing access and distance fees on multifamily and commercial businesses. The RBR Program, as detailed in this report, has an annual financial obligation to the City to partially fund the removal of access and distance charges to customers, related to the collection of blue bins. The contract amendments require the City to evaluate the available future funding and provide notice to the RSPs on the City's decision to continue or to discontinue the program. If the City Council, in its sole discretion, concludes the City cannot continue funding the RBR Program, then it will provide a minimum of one calendar year's written notice to the RSPs of the discontinuance of this program. Continuance of this program will have an impact on the General Fund.

**Recommendations:**

1. Considering the benefits of the RBR Program and the potential cost impacts to recycLA customers if the program were discontinued, LASAN recommends to continue the RBR Program as a General Fund obligation for one year through March 31, 2024.
2. Instruct LASAN to provide an update to City Council no later than January 31, 2024 with updated program cost projection; at which time, City Council will reconsider the continuation of the RBR Program.
3. Authorize LASAN to work with the RSPs and identify solutions to maintain the RBR program in place .

**This report provides details of the RBR Program, benefits of the program, and cost of the program to date and projected financial obligations.**

### Background

RecycLA is the City's exclusive waste and recycling collection program for commercial and large multifamily customers in the City. In December 2016, the City Council approved the recycLA contracts. The City executed the recycLA contracts in January 2017 with Calmet (Contract C-128875); Nasa Services, Inc. (Contract C-128876); Ware Disposal, Inc. (Contract C-128877); USA Waste of California, Inc., dba Waste Management (Contract C-128878); Arakelian Enterprises, Inc. dba Athens Services (Contract C-128879); Consolidated Disposal Service, LLC. dba Republic Services (Contract C-128880); and Universal Waste Systems, Inc. (Contract C-128881). (Council File 10-1797-S17). In March 2019, the City Council approved a settlement agreement (agreement) and contract amendments to the recycLA contracts, resulting from a dispute regarding the application of certain extra service charges. (Council File 19-0170).

There are a number of positive outcomes from the approved agreement and contract amendments, including: improved outreach and education through implementation of an Optimization Period and an avoidance of potential widespread assessment of contamination fees; phased in cost increases; establishing the RBR Program by eliminating blue bin related extra service charges; and further clarity on applicability of fees. The approved contract amendments provide customers both short-term and long-term relief on extra service charges associated with blue bins. Through the RBR Program, all customers (multi-family and residential and commercial alike) have not had to pay extra service charges (for access or distance) associated with blue bin collection since February 2018. To date, customers have saved over \$144 million in avoided access and distance fees on blue bins.

The recycLA service providers (RSPs) and the City jointly fund the reduction in customers' actual bills by removing blue bin associated extra service charges, and thereby equally bear the costs of the removal of barriers to recycling. On a quarterly basis, the City compensates (via payments or credits, at the City's sole discretion) 50 percent of the validated access and distance charges associated with recycLA customers' blue bin service.

To normalize cost to the City, per the contract amendment, a baseline for each RSP was established for the City payments to the RSPs, and the baseline is adjusted annually to account for actual cost to the RSPs. On a contract by contract basis, RSPs are not paid more than their adjusted baseline (capped) amount. Any amount due over each of the RSPs' cap is rolled over for future payment to the RSP.

The City reimburses the RSPs quarterly, based on annual data provided by the RSPs. The City reimburses the RSPs in quarterly (or four) equal installments, with an annual (one) true-up in the first quarter of the subsequent calendar year. Quarterly installments are calculated (and estimated) based upon the total annual City Fee Reimbursement from the prior year (including the annual true-up) and paid or credited to the RSPs no later than the last day of a given quarter. The RSPs submit to the City, by January 30th of each year, an invoice for the Extra Service Charges subject to City Fee Reimbursement payments for the upcoming year based on the applicable fees and charges applied for the previous year (January 1st through December 31st). This invoice is the basis for the quarterly City fee reimbursement payments by the City and is used to calculate the annual true-up.

By way of illustration:

Quarterly Payments – LASAN’s payment to an RSP for period of January 1, 2020 to December 31, 2020:

- By January 30, 2020 the RSP shall submit a summary of the Access and Distance Extra Service Charges not billed to customers for the period of January 1, 2019, through December 31, 2019. The City shall use this summary as an invoice for payments made to the RSP for the Period of January 1, 2020 to December 31, 2020.
  - If the City’s 50% portion of said invoice is equal to \$100,000 (and if this amount is less than the annual cap), then the City will make four quarterly payments/credits: \$25,000 by March 31, 2020 for the first calendar quarter, \$25,000 by June 30, 2020 for the second calendar quarter, \$25,000 by September 30, 2020 for the third calendar quarter, and \$25,000 by December 31, 2020 for the fourth calendar quarter.

True-up Payment – LASAN true-up payment for period of January 1, 2020 to December 31, 2020:

- By January 30, 2021, the RSP shall submit a summary of the Extra Service Charges not billed to customers for blue bins for the period of January 1, 2020, through December 31, 2020. The City shall use this summary as an invoice for payments made to the RSP for the Period of January 1, 2021 to December 31, 2021; and use this as a true-up invoice for 2020.
  - Continuing the illustration above. If for example, the City’s 50% portion of this true-up invoice equals \$120,000 (and if this amount is within the parameters as expressed in section 6.1.3 *infra*, in this illustration the normalization year is 2020), then the City will make a single true-up payment/credit of \$20,000 (\$120,000 - \$100,000) by March 31, 2021.
  - The January 30, 2021 summary shall be used as the invoice for payments made to the RSP for the Period of January 1, 2021 to December 31, 2021. Thus, the regular quarterly payments/credits by the City to the RSP for calendar year 2021 would be \$30,000 (one fourth of the invoice for the previous year). The total payment to the RSP for this example by March 31, 2021 would be \$50,000 (the \$20,000 true-up payment plus the \$30,000 regular quarterly payment).

All amounts incurred over the annual cap become payable by the City. The City will pay and/or credit the RSPs for any City Fee Reimbursement due and carried over from 2018 through 2022 no later than March 31, 2023 (“Rollover Payment”). Following December 31, 2022, the City will pay any additional unpaid (over cap) amount no later than January 31, 2027, or upon the termination of the Removing Barriers to Recycling Program, whichever is earlier.

At the time when the contract amendments were approved, the RSPs indicated that there were a number of customers that were not being charged extra service charges on their blue bins, but met the conditions in which they could be applied. As such, the City was unable to anticipate the full impact of the program in future years. Given the uncertainty of the future program cost and availability of future funding, the City has the ability to discontinue the program with proper notice to the RSPs. In accordance with the terms of the agreement the City must analyze the RBR Program with a focus on funding availability and/or projections to support the City’s continued participation in the program, and no later than January 31, 2023, the City will give the RSPs a written notice of its intent to continue or

discontinue the program. LASAN provided a written notice to the RSPs on January 31, 2023, informing them that the City was continuing to analyze the program and would provide them a decision of its intent by March 31, 2023.

If the City Council, in its sole discretion, concludes the City cannot continue funding the RBR Program, then it will provide a minimum of one calendar year’s written notice to the RSPs of the discontinuance of this program. If the program is discontinued, the access and distance extra service charges for blue bin service will be reinstated consistent with the recycLA franchise contracts, amendments and agreements. In accordance with the terms of the agreement, if the RBR Program were to end, the City would then support the RSPs in resolving any customer billing disputes consistent with the customers’ payment obligations of extra service charges on blue bin services.

**Benefits of the RBR Program**

LASAN has seen a number of benefits of the RBR Program. Twenty-five percent of the recycLA customers saw a significant reduction in their monthly billing, steady increase in recycling, and compliance with state regulations. These benefits are achieved by removing access and/or distance fees a customer may incur there by accepting and/or increasing subscription to blue bin recycling services.

There are currently over 17,000 recycLA customers (approx. 25% of the recycLA customers) that benefit from the RBR Program. In 2019 many customers received retro credits going back to February 2018, totaling \$11 million in credits. To date customers have seen over \$144 million in extra service fee relief related to blue bin collection. LASAN projects future annual benefits to customers in excess of \$42 million. A breakdown of the customers currently receiving RBR credits are detailed in Tables 1a., 1b., 1c., shown below. In addition, a breakdown of customers by council districts is shown below in table 2, 2a., and 2b.

**Table 1a. - Customers with Blue Bin Access Charges**

<b>Row Labels</b>	<b>Blue Access Fee ONLY Customers (No Distance)</b>	<b>Average Monthly Blue Access Fees</b>
Multi-Family	6,301	\$99
Commercial	4,698	\$93
<b>Grand Total</b>	<b>10,999</b>	<b>\$97</b>

**Table 1b. - Customers with Distance Charges**

<b>Row Labels</b>	<b>Blue Distance Fee ONLY Customers (No Access)</b>	<b>Average Monthly Blue Distance Fees</b>
Multi-Family	1,827	\$394
Commercial	1,362	\$442
<b>Grand Total</b>	<b>3,189</b>	<b>\$410</b>

**Table 1 c. Customer with Blue Bin Access and Distance Charges**

<b>Row Labels</b>	<b>Both Blue Access AND Distance</b>	<b>Average TOTAL Monthly Blue Fees</b>
Multi-Family	2,325	\$555
Commercial	643	\$561
<b>Grand Total</b>	<b>2,968</b>	<b>\$557</b>

**Table 2 - Customers by Council District**

<b>Council District</b>	<b>Customers with Blue Bin Access and/or Distance</b>
CD 1	975
CD 2	1937
CD 3	1098
CD 4	1999
CD 5	1470
CD 6	1381
CD 7	621
CD 8	905
CD 9	516
CD 10	1357
CD 11	867
CD 12	664
CD 13	1865
CD 14	920
CD 15	581
<b>Grand Total</b>	<b>17156</b>

**Table 2a. – Multifamily Customer with Blue Bin Access and/or Distance by Council District**

Row Labels	Number With Access (Only)	Number With Distance (Only)	Number With Both Access AND Distance	Average Total Monthly Blue Fees
CD 1	336	98	106	\$237
CD 2	876	244	309	\$191
CD 3	267	83	159	\$485
CD 4	916	232	366	\$221
CD 5	710	221	184	\$188
CD 6	485	108	174	\$208
CD 7	174	36	49	\$212
CD 8	341	88	139	\$133
CD 9	175	34	37	\$212
CD 10	497	189	188	\$176
CD 11	396	103	135	\$335
CD 12	133	37	88	\$480
CD 13	618	164	254	\$200
CD 14	169	90	52	\$591
CD 15	208	100	85	\$184
<b>Grand Total</b>	<b>6,301</b>	<b>1,827</b>	<b>2,325</b>	<b>\$238</b>

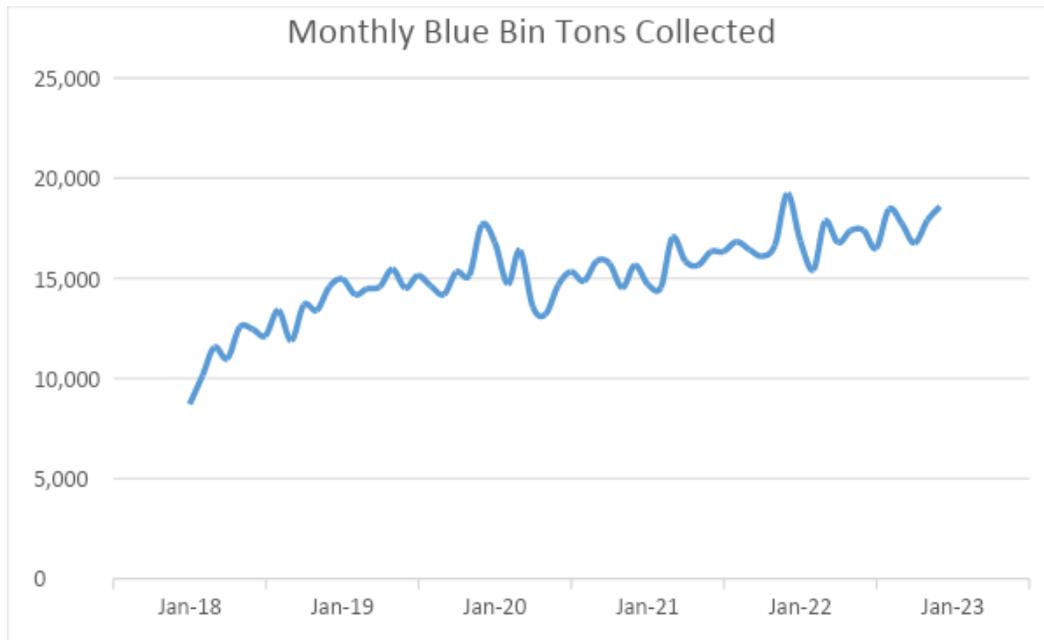
**Table 2b. – Commercial Customer with Blue Bin Access and/or Distance by Council District**

Row Labels	Number With Access (Only)	Number With Distance (Only)	Number With Both Access AND Distance	Average Total Monthly Blue Fees
CD 1	352	37	46	\$169
CD 2	375	83	50	\$158
CD 3	208	313	68	\$331
CD 4	341	82	62	\$227
CD 5	242	83	30	\$233
CD 6	418	122	74	\$176
CD 7	264	71	27	\$179
CD 8	292	22	23	\$100
CD 9	245	17	8	\$128
CD 10	364	75	44	\$180
CD 11	178	35	20	\$213
CD 12	137	237	32	\$384
CD 13	616	100	113	\$188
CD 14	503	63	43	\$225
CD 15	163	22	3	\$97
<b>Grand Total</b>	<b>4,698</b>	<b>1,362</b>	<b>643</b>	<b>\$207</b>

As shown in Tables 1a., 1b., 1c., if the RBR Program is discontinued, customer bills would increase by an average of \$97 to \$557 per month, depending on their service needs.. It is important to note that some customers with high service needs would see dramatically higher monthly increases associated with the reinstatement of blue bin access and distance charges.

One of the goals of the RBR Program is to remove any disincentive to increase recycling. As shown in Chart 1, there has been a steady increase in the monthly blue bin tonnage collected since the program was approved in March 2019. However, to reach the City’s zero waste goals the amount of recyclables collected monthly will need to triple. This can only be achieved through increases in blue bin subscription. If the RBR Program was to cease, then it would likely hinder the increase in subscription for those with extra service charges on the blue bins.

**Chart 1 – Monthly Blue Bin Tons Collected**



In accordance with State and City regulations, all customers must participate in recycling. To further California’s recycling efforts, the State approved Assembly Bill (AB) 341 which established a statewide recycling goal of 75% by 2020. This law requires California commercial or public entities that generate four (4) or more cubic yards of solid waste per week, and multifamily dwellings of five (5) or more units, to arrange for recycling services. Furthermore, based on the collection system, the State adopted Senate Bill (SB) 1383 requires all commercial and multifamily properties to participate in blue bin recycling. CalRecycle holds jurisdictions responsible for ensuring compliance from all businesses. In compliance with AB 341 and SB 1383, the L.A.M.C., Section 66.03(e), Collection Services Required, states: *“All Commercial Establishments and Multifamily Dwellings shall have Collection Services for Source-Separated Recyclables and/or Commingled Recyclables and Source-Separated Organic Waste.”*

RBR Program Costs to the City

The City has an annual financial obligation to partially fund the removal of access and distance charges to customers, related to the collection of blue bins. LASAN has included the annual RBR Program payments in its annual budgets. Special fund revenue (Citywide Recycling Trust Fund/AB 939 Fees) was utilized to fund the RBR Program under capped annual payments for fiscal year 2018-2019, 2019-2020, 2020-2021, and 2021-2022. However, beginning in fiscal year 2022-2023, the Citywide Recycling Trust Fund was not able to fund the full cost of the program, including the City’s obligation under the annual cap and the 2023 payments for accrued amounts over the baseline. Future RBR Program payment will need to be General Fund supported.

**Table 3a. – Total RBR Credits and City Obligation**

	2018	2019	2020	2021	2022	2023 (Estimated)	2024 (Estimated)	2025 (Estimated)	2026 (Estimated)
Total Access/ Distance Reported by the RSPs	\$13,138,943	\$24,186,587	\$28,452,428	\$34,589,691	\$43,728,496	\$46,711,683	\$49,047,269	\$51,499,631	\$54,074,612
City RBR Obligation to RSPs	\$5,972,247	\$10,993,903	\$12,932,922	\$15,722,587	\$19,876,589	\$21,232,583	\$22,294,213	\$23,408,923	\$24,579,369

**Table 3b. – RBR Payments to RSPs**

	2018	2019	2020	2021	2022	2023 (Estimated)	2024 (Estimated)	2025 (Estimated)	2026 (Estimated)
CRTF Funded - City RBR Payments Issued to RSPs (within Cap)	\$5,972,247	\$5,850,187	\$7,286,545	\$8,328,030					
General Funded - City RBR Payments Issued to RSPs (within Cap)					\$9,310,329 <sup>(1)</sup>	\$11,490,709	\$12,006,908	\$12,548,917	\$13,118,027
Annual RBR over Cap and Rolled Over	\$0	\$5,143,717	\$5,646,377	\$7,394,557	\$10,566,260	\$9,741,875	\$10,287,305	\$10,860,006	\$11,461,343
General Funded Cumulative Rolled Over Payout		\$5,143,717 <sup>(3)</sup>	\$10,790,093 <sup>(3)</sup>	\$18,184,651 <sup>(3)</sup>	\$28,750,910 <sup>(1)(2)</sup>	\$9,741,875 <sup>(4)</sup>	\$20,029,179 <sup>(4)</sup>	\$30,889,185 <sup>(4)</sup>	\$42,350,528 <sup>(5)</sup>

Footnotes:

- 1 – Included in the LASAN approved fiscal year '22-'23 budget (CRTF Schedule 32).
- 2 – Cumulative rollover payment (2019-2022) to be paid to RSPs by March 31, 2023.
- 3 – Not paid to RSPs, amount rolled over to March 31, 2023 RSP payment.
- 4 – Not paid to RSPs, amount rolled over to January 31, 2027 RSP payment.

*5 – Cumulative rollover payment (2023-2026) to be paid to RSPs by January 31, 2027.*

As noted in Table 3b., the City will issue its first cumulative rollover (City obligation over annual cap) payment of \$28,750,910 to the RSPs by March 31, 2023. The 2023 cumulative rollover payment is included in the fiscal year '22-'23 CRTF Schedule 32. However, if the program is continued, then there will be a general fund obligation for the annual under-cap payments to the RSPs ranging from \$11.5 million in 2023 to \$13.1 million in 2026. In addition, there will be a General Fund obligation of an estimated \$42 million in January 2027 for the cumulative rollover amount for calendar years 2023 through 2026.

#### Summary

Considering the benefits of the RBR Program and the potential cost impacts to recyclA customers if the program were discontinued, LASAN recommends to continue the RBR Program as a General Fund obligation. However, the future cost impacts to the City could prove to be prohibitive. As such, the program should continue to be reviewed annually. LASAN will provide an update to City Council no later than March 30, 2024 with an updated program cost projection, at which time City Council may reconsider the continuation of the RBR Program.