
BURBANK SANITARY DISTRICT
REGULAR MEETING AGENDA FOR
October 5, 2021 at 7:00 PM

In accordance with Executive Order N-33-20, meeting to be held at 7:00 p.m. via teleconferencing [call (866) 899-4679 Conference ID: 785-518-013] and anyone interested may also call in. The District Office at 20863 Stevens Creek Boulevard, Suite 100, Cupertino, California is closed..

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF AGENDA

4. PUBLIC COMMENTARY – This area is reserved for items **not** listed on the agenda. The Brown Act does not allow discussion of or action on items not on the agenda. The Board may briefly respond to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. There is a three (3) minute limit for individual speakers.

- 4.A. Visitor Commentary
- 4.B. Agency Representatives
- 4.C. Board Commentary

5. NEW BUSINESS

- 5.A. GreenWaste Recovery, Inc. 1) Change in Control, 2) Winter 2021 Newsletter. Board action required: Review and approve Consent and First Amendment to Collection Service Agreement.
- 5.B. AB 361 (Brown Act) - Based upon the existence of the conditions set forth in Government Code section 54953(e)(1)(A) that there is a proclaimed state of emergency, and state and local officials have recommended measures to promote social distancing, the Board concludes it is appropriate to conduct this meeting virtually.

6. CLOSED SESSION

- 6.A. CONFERENCE WITH LEGAL COUNSEL –EXISTING LITIGATION
Government Code Section 54956.9(d)(1) Name of Case: County Sanitation District 2-3, West Valley Sanitation District, Cupertino Sanitary District, Burbank Sanitary District and the City of Milpitas v. The City of San Jose, The City of Santa Clara, and Does 1 through 50 inclusive.

7. CONSENT CALENDAR

- 7.A. Approval of Minutes. Board action required: Approve Regular Meeting Minutes from 9/21/2021.

8. OLD BUSINESS

- 8.A. Status of SRF Loan and CIP Update. Board action required: None.
- 8.B. Long Range Financial Planning. Board action required: None.
- 8.C. COVID-19 Update. Board action required: None.

9. HOUSEKEEPING ITEMS

- 9.A. Updates on Housekeeping Items. Board action required: None.
- 9.B. Agenda Items for Next Upcoming Meeting. Board action required: None.

10. ADJOURNMENT: NEXT REGULAR MEETING – Tuesday, October 19, 2021

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in a District meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact the District Administrator's office at (408) 255-2137. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the District staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service. In accordance with California Government Code Section 54957.5, any writing or document that is a public record, relates to an open session agenda item, and is distributed less than 72 hours prior to a regular meeting will be made available for public inspection at the District Office. If, however, the document or writing is not distributed until the regular meeting to which it relates, then the document or writing will be made available to the public at the location of the meeting, as listed on this agenda.

* Pursuant to Government Code 54954 subsection b, subsection 4, this facility constitutes the closest meeting facility for the Burbank Sanitary District, since the District has no other meeting facility within the boundaries of the territory, over which the **Burbank Sanitary District exercises jurisdiction.**

BURBANK SANITARY DISTRICT

5. NEW BUSINESS

- 5.A GreenWaste Recovery, Inc.
- 5.B AB 361 (Brown Act)



September 17, 2021

Burbank Sanitary District
Ms. Michelle Kaelker-Boor
20863 Stevens Creek Blvd., Suite 100
Cupertino, CA 95014

Subject: Notification in Change in Control and Request for Consent

Dear Ms. Kaelker-Boor,

Thank you for your time on September 16, 2021. As we discussed, GreenWaste Recovery, Inc. ("GreenWaste") is excited to have entered into an agreement on August 28, 2021 to recapitalize GreenWaste and our sister company Zanker Road Resource Management, Ltd. ("Zanker"), inclusive of our related affiliates/joint ventures (collectively, the GreenWaste family of companies). We truly could not have found a stronger and more well-suited partner that embodies our core values that is deeply committed to the exceptional service delivery you have come to know and expect, while also offering support for our future growth.

The proposed transaction will result in a change in control ("COC"), wherein the current stockholders of GreenWaste and the current limited and general partners of Zanker will sell their respective stock or partnership interests, as applicable, to MIP V Waste, LLC, a subsidiary of MIP V Waste (ECI) AIV, L.P. (together with Macquarie Infrastructure Partners V, L.P., Macquarie Infrastructure Partners V SCS and any special purpose vehicles thereof, "MIP V").

GreenWaste is expected to remain a stand-alone business entity with no anticipated change to staff or operations and no assignment of your herein-defined Collection Agreement is being considered at this time. Post-transaction, we expect no changes to the management team and we will continue to perform all the services and provide all the assurances pursuant to the terms of the Collection Service Agreement Executed Between the Burbank Sanitary District and GreenWaste Recovery, Inc. dated July 19, 2016 ("Collection Agreement"). We are confident the District and its residents and businesses will not notice or observe any change to the services they are accustomed to receiving.

Article 32 of the Collection Agreement requires the District's written consent prior to a COC; please let this letter serve as our formal request for such consent.

While we do not intend to make a public announcement, we have enclosed for your review a confidential introductory deck that provides background on MIP V and its manager, including background on financial strength, experience in and commitment to our industry, and provides an overview of the transaction structure. The confidential deck should answer many, if not most of the questions you may have, and we can provide additional information upon request.

Time is of the essence. With your Board only meeting twice monthly, we deeply appreciate your commitment to promptly bring this to your Council for their consideration, ideally October 5, 2021. We will do everything we can to support preparation of any staff report, and we have also included with the electronic transmittal of this letter a draft amendment for the Board's consideration. A hard copy of this letter, the confidential introductory deck will also be mailed to the District office, to your attention.

GreenWaste is proud of our long-term partnership with the District and we look forward to continuing to provide an exceptional suite of innovative service offerings to your residents and businesses and support the District in achieving regulatory compliance well into the future.

Sincerely,



Tracy M. Adams
Chief Executive Officer

Cc: Benjamin Porter, District Manager

Encl. Proposed Amendment (*soft copy only*)
Introductory Deck (*confidential*)

CONSENT AND FIRST AMENDMENT TO COLLECTION SERVICE AGREEMENT

This Consent and First Amendment (“Consent and Amendment”) dated for reference September 16, 2021 is entered into by and between the Burbank Sanitary District, a political subdivision of the State of California (“District”) and MIP V Waste, LLC, a Delaware limited liability company (“Company”).

RECITALS

WHEREAS, District and GreenWaste Recovery, Inc. (“Contractor”) entered into that certain Collection Service Agreement dated July 19, 2016, including any duly executed amendments thereto (“Agreement”); and

WHEREAS, on September 16, 2021, Contractor notified District that Contractor had entered into an agreement dated as of August 28, 2021 to sell all or substantially all of its outstanding capital stock to Company, which would result in a change of control of Contractor (“Transaction”); and

WHEREAS, pursuant to Section 32 of the Agreement, no assignment or other transfer, including a change of control of Contractor, is permitted under the Agreement without the prior consent of District; and

WHEREAS, Contractor has requested that District approve the change of control of Contractor to Company; and

WHEREAS, pursuant to Section 32 of the Agreement, District requested and/or Contractor provided information regarding the proposed change of control from Contractor and Company and its affiliates, Contractor and Company or its affiliates complied with such requests, and District reviewed the information submitted by Contractor and Company and its affiliates; and

WHEREAS, District has considered the proposed change of control, including but not limited to the qualifications of the Company, and is willing to approve the change of control of Contractor to Company pursuant to the terms of this Consent and Amendment; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals; Definitions. The foregoing recitals are true and correct, and incorporated into this Consent and Amendment by this reference. Capitalized terms used in this Consent and Amendment and not otherwise defined herein shall have the meaning assigned to them in the Agreement.

2. Approval of Change of Control. The Board of Directors of the Burbank Sanitary District approves and consents to the change of control of Contractor to Company pursuant to Section 32 of the Agreement (“COC Approval”) and shall in no event be deemed an “event of default” or cause or result in any default or violation under, termination of, or any other effect on the Agreement. The COC Approval shall become effective immediately upon execution by District of this Consent and Amendment (“Approval Date”) unless Contractor furnishes written notice to

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District that it will not consummate the Transaction, at which time the COC Approval shall be deemed null and void.

3. Consent to Future Assignment. District acknowledges that Company may cause Contractor and its affiliates to undergo a reorganization and, in connection therewith, Contractor may assign the Agreement to an affiliate of the Company ("Proposed Assignee") in a manner that would otherwise constitute an assignment pursuant to Section 32 of the Agreement ("Future Assignment"). In the case of the Company, "affiliate" shall only include MIP V Waste (ECI) AIV, L.P. (together with Macquarie Infrastructure Partners V, L.P., Macquarie Infrastructure Partners V SCSp and any special purpose vehicles, portfolio companies or subsidiaries thereof). Effective upon the COC Approval, the Board of Directors of the Burbank Sanitary District approves and consents to any Future Assignment, and such assignment shall in no event be deemed an "event of default" or cause or result in any default or violation under, termination of, or any other effect on the Agreement, upon the satisfaction of the following:

a. Contractor furnishes thirty (30) calendar days written notice to District following the closing of any Future Assignment or Transfer ("Notice"). The Notice shall describe the assignment or transfer in general terms, and identify the Proposed Assignee, as that term is defined herein below.

b. The closing of Future Assignment or Transfer must occur no later than December 31, 2022.

c. By furnishing Notice to District, Proposed Assignee represents and warrants to District that it accepts the assignment of the Agreement from Contractor, and that it assumes all of the rights, interests, and obligations of the Contractor under the Agreement.

4. Due Execution. The person(s) executing this Consent and Amendment on behalf of a party hereto warrant(s) that (i) such party is duly organized and existing; (ii) such person(s) are duly authorized to execute and deliver this Consent and Amendment on behalf of said party; (iii) by so executing this Consent and Amendment, such party is formally bound to the provisions of this Consent and Amendment; and (iv) entering into this Consent and Amendment does not violate any provision of any other agreement to which said party is bound.

5. Entire Amendment. This Consent and Amendment contains the entire agreement and understanding between the parties with respect to the subject matter of this Consent and Amendment and supersedes any and all prior or contemporaneous oral and written representations, warranties, agreements, and understandings between the parties concerning the subject matter of this Consent and Amendment.

6. Full Force and Effect. Other than as set forth in this Consent and Amendment, the terms of the Agreement shall remain unchanged and in full force and effect. In the event of any conflict between the Agreement and this Consent and Amendment, this Consent and Amendment shall apply.

7. Counterparts. This Consent and Amendment may be executed in counterparts, each of which shall be considered an original.

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TO EFFECTUATE THIS CONSENT AND AMENDMENT, each of the parties has caused this Consent and Amendment to be executed by its authorized representative as of the date set forth below the authorized signature.

[signatures begin on next page]

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DISTRICT:

BURBANK SANITARY DISTRICT

By:

Its: Director

Date:

COMPANY:

MIP V Waste, LLC,
a Delaware limited liability company

By:

Its:

Date:

ATTEST:

By:

Its: Director

Date:

APPROVED AS TO FORM:

By:

Its: Director

Date:



GREEN UPDATES



GREENWASTE RECOVERY'S QUARTERLY NEWSLETTER FOR BURBANK

NEWS AND FEATURES

- Message from CEO: SB 1383
- Reducing Organic Waste, Tip # 2
- Requesting Extra Services & Holiday Collection



What is SB 1383?

by Tracy Adams, Co-CEO

Organic waste disposal in landfills accounts for 20% of the state’s methane emissions. SB1383 is California’s short-lived climate reduction strategy, targeting these emissions. Regulations take effect on January 1, 2022, implementing statewide organic recycling and processing. To help manage the surge of organic material, SB1383 also requires organic product procurement in the form of compost & other materials.

Through recycling and edible food rescue regulations, SB1383 aims to reduce 75% of organic waste disposal and rescue 20% of disposed edible food for people to eat by 2025.



Organics Tip #2: Befriend your Freezer

by Emma Rasmussen, Sustainability and Communications Analyst

In addition to organics recycling, SB 1383 targets overall reduction of organic waste. One of the best tools to combat throwing away edible food is by delaying food decay. That’s where your freezer comes into play! Try the freezer tips to avoid tossing organics:

- Going out of town? Bought too much produce? Freeze it!
- If bread is molding faster than you can eat it, try toasting it directly from the freezer.
- Meat nearing the expiration date can be cooked and then frozen for an easy meal later.
- Overripe bananas and no time to bake? Peel and freeze to use when you have time.



How to Request Extra Services

by Ereida Atayde, Office Manager

Extra services are available to residents of Burbank. Some of these services are included (like Bulky Item Collection), and some come with an extra charge (like Extra Garbage).

Please contact Customer Service at least 48 hours in advance of requested service so that the proper work orders can be placed, and so that our team can explain any specific parameters. You can contact Customer Service through the following means:

- Email: customerservice@greenwaste.com
- Online form: greenwaste.com > Support > Service Request
- Live Chat: greenwaste.com > jurisdiction search function
- Phone: (408) 283-4800



Holiday Collection Information

by Kevin Martinez, Community Relations Coordinator

Christmas Day and New Year's Day fall on Saturdays this season, so collection schedules will remain uninterrupted!

TREES:

On service day, place unornamented trees (cut to no longer than four foot lengths) Curbside, next to your service carts for Yard Trimmings collection. Trees are collected for no additional charge between December 26 and January 31 of each year.



PAY YOUR BILL ONLINE
<https://portal.greenwaste.com>



CONTACT US
408.283.4800/ 800.944.4388



BURBANK SANITARY DISTRICT

7. CONSENT CALENDAR

7.A. APPROVAL OF MINUTES

Approve Minutes from Regular Meeting of
September 21, 2021

**BURBANK SANITARY DISTRICT
BOARD OF DIRECTORS**

**MINUTES OF REGULAR MEETING
September 21, 2021**

1. CALL TO ORDER

The Board of the Burbank Sanitary District convened this date at 7:00 p.m. via teleconferencing in accordance with Executive Order N-33-20. President Sclafani called the meeting to order at 7:02 p.m.

2. ROLL CALL

Directors Present: Ken Colson, Rene Prupes (excused at 7:39 pm), Procopio Sclafani, Michelle Kaelker-Boor, Rebecca Yoder
Directors Absent: None
Counsel Present: Valerie Armento (present for the beginning of the open session and the entire closed session)
Advisor: Richard Tanaka (present for the beginning of the open session and the entire closed session)
Staff: Benjamin Porter (District Manager), Robert Woodhouse (Deputy District Manager), Vani Kathula (Joined meeting for Item 9D)
Visitors: None

3. APPROVAL OF AGENDA

Motion: To approve the agenda.

Move: Yoder

Second: Kaelker-Boor

Board vote:

Ayes: Colson, Prupes, Sclafani, Yoder, Kaelker-Boor

Noes: None

Absent: None

4. PUBLIC COMMENTARY

4.A. Visitor Commentary – None.

4.B. Agency Representatives – None.

4.C. Board Commentary - None.

5. CLOSED SESSION

5.A. CONFERENCE WITH LEGAL COUNSEL –EXISTING LITIGATION

Government Code Section 54956.9(d)(1) Name of Case: County Sanitation District 2-3, West Valley Sanitation District, Cupertino Sanitary District, Burbank Sanitary District and the City of Milpitas v. The City of San Jose, The City of Santa Clara, and Does 1 through 50 inclusive.

Closed session discussion commenced at 7:05 pm and ended at 7:33 pm. Manager Porter and Deputy Manager Woodhouse were excused. No reportable action was taken at the closed session. Staff rejoined the regular session

6. CONSENT CALENDAR

6.A. Approval of Minutes from the Regular Meetings of August 17, 2021

Motion: To approve Meeting Minutes from the Regular Meetings of August 17, 2021.

Move: Yoder

Second: Prupes

Board vote:

Ayes: Prupes, Sclafani, Kaelker-Boor, Colson

Noes: None

Absent: None

Abstain: Yoder

7. WARRANTS

7.A. Approval of Warrants.

1. Mark Thomas & Company, Inc. (District Management Services and BSD CIPs)
2. First Tech Federal Credit Union (Board of Directors' Payroll)
3. Armento and Hynes, LLP (District Legal Services)
4. Richard Tanaka (District Advisor Services)

Motion: To approve four (4) warrants as listed.

Move: Kaelker-Boor

Second: Yoder

Board vote:

Ayes: Prupes, Sclafani, Kaelker-Boor, Colson, Yoder

Noes: None

Absent: None

8. NEW BUSINESS

None.

9. OLD BUSINESS

9.A. Status of SRF Loan and CIP Update.

Deputy Manager Woodhouse provided a summary of the project award schedule that included the Pre-Construction Meeting on September 29, 2021 and the Notice to Proceed on October 4, 2021. Once the Notice to proceed has been issued District staff will complete the SWRCB Budget Approval Package and send to the State for their 2-month review. The Board will review the construction contract, which has been reviewed by District Counsel, and provide any concerns by Friday September 24, 2021, prior to execution.

9.B. Long Range Financial Planning.

No Update.

9.C. GreenWaste Recovery, Inc Update.

Board reviewed and noted the August 2021 Delinquent Account.

9.D. District Website Update.

Vani Kathula provided an update on the District Website. The website is being transferred and should take a day or two. Vani will send a note to the Board once the site is up and running.

9.E. COVID-19 Update.

Manager Porter reported on the status of AB 361 – New Law on Brown Act Compliance, which pertains to remote meetings for public agencies. which was signed by the Governor this week. The March 4, 2020 Governor’s Proclamation of a State of Emergency and the Santa Clara County Universal Indoor Face Covering Order are both still in effect. The Board will need to regularly agendaize making a determination that it is in the best interest of the District and the Public to continue to have the meetings remotely. The Board can continue to operate this way through December 31, 2023.

10. HOUSEKEEPING ITEMS

10.A. Updates on Housekeeping Items.

Director Yoder will not be able to attend the October 29, 2021, Board Meeting. She will be excused.

10.B. Agenda Items for Next Upcoming Meeting.

No Update.

11. ADJOURNMENT – NEXT REGULAR MEETING – Tuesday, October 5, 2021

Motion: To adjourn meeting at 8:05 pm.

Move: Yoder **Second:** Kaelker-Boor

Board vote: **Ayes:** Colson, Kaelker-Boor, Sclafani, Yoder
 Noes: None
 Absent: Prupes

Approved: October 5, 2021

Respectfully Submitted,

Mark Thomas & Company, Inc.

Procopio Sclafani, President

District Manager
Benjamin T. Porter, PE