

RESOLUTION NO. 2024-169

**RESOLUTION OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF SAN BERNARDINO, CALIFORNIA,
ADOPTING THE REPORT PROPOSING TO HAVE
DELINQUENT SOLID WASTE COLLECTION SERVICE
CHARGES COLLECTED ON THE TAX ROLL**

WHEREAS, to protect the health, safety, and welfare of the residents of the City of San Bernardino (“City”), and pursuant to San Bernardino Municipal Code (“SBMC”) section 8.24.040(B) every occupied premises in the City is required to have solid waste collection service; and,

WHEREAS, on January 25, 2016, the Mayor and City Council approved, by Resolution 2016-10, a ten-year agreement (“Franchise Agreement”) with Burrtec Waste Industries, Inc. (“Franchised Hauler”) to provide solid waste collection services to the City; and,

WHEREAS, pursuant to section 21.11.1 of the Franchise Agreement, the Franchised Hauler may not discontinue service for residential premises for nonpayment; and,

WHEREAS, pursuant to SBMC section 8.24.050, and provisions of state law including Government Code sections 38790.1 and 25831, the Franchised Hauler may assign accounts delinquent greater than sixty (60) days to the City to be placed on the annual secured property tax rolls and that any amounts owing would then become a lien on the property; and,

WHEREAS, pursuant to SBMC section 8.24.050(B)(1) the Franchised Hauler sent notices to property owners and occupants with delinquent accounts informing the property owners and occupants of the delinquent amount and that failure to pay that amount within fifteen (15) days of the notice could result in a special assessment and lien upon the property as well as a ten percent (10%) penalty and one and one-half percent (1.5%) monthly interest charge; and,

WHEREAS, pursuant to SBMC section 8.24.050(C) the Franchised Hauler assigned the delinquent accounts to the City; and,

WHEREAS, pursuant to SBMC section 8.24.050(D) the City Manager, through the Director of Public Works, prepared a report of delinquency and initiated proceedings to create a special assessment and lien on the properties with delinquent solid waste accounts; and,

WHEREAS, pursuant to SBMC section 8.24.050(E) the City Manager, through the Director of Public Works, sent notices to the owners and occupants of properties with delinquent accounts giving at least ten (10) days’ notice that an administrative hearing had been set before the Hearing Officer for May 23, 2024 at 1:00 p.m. in the Board Room at 201 N. “E” Street, Third Floor, San Bernardino, California and that a public hearing had been set before the Mayor and City

Council for July 17, 2024 at 5:00 p.m. in the Feldheym Central Library at 555 W. 6th Street, San Bernardino, California; and,

WHEREAS, pursuant to SBMC section 8.24.050(F) the Hearing Officer for the City of San Bernardino, at the aforementioned date, time, and place, held an administrative hearing; and,

WHEREAS, during the aforementioned administrative hearing, all appeals, protests, or objections, if any, were duly presented and the Hearing Officer gave all persons noticed and present desiring to be heard, an opportunity to be heard in respect to any matter relating to said assessments, to the corrections of said assessments, or to any matter relating to said assessments or the proceedings therefore; and,

WHEREAS, pursuant to SBMC section 8.24.050(G) the Mayor and City Council for the City of San Bernardino, at the aforementioned date, time, and place, held a public hearing; and,

WHEREAS, during the aforementioned public hearing, all appeals, protests, or objections, if any, were duly presented and the Mayor and City Council gave all persons noticed and present desiring to be heard, an opportunity to be heard in respect to any matter relating to said assessments, to the corrections

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. That said administrative and public hearings have been duly held; that each and every step in the proceedings prior to and including the public hearing has been properly and regularly taken; that this Mayor and City Council are satisfied with the correctness of the assessments; the proceedings and all matters relating thereto; and that all protests, objections, or appeals are hereby overruled and denied; and the Mayor and City Council do hereby confirm said proceedings and said assessments in the report in Exhibit A attached hereto and made a part hereof.

SECTION 3. The Mayor and City Council hereby elects to collect the delinquent solid waste collection service charges in Exhibit A, on the property tax roll, in the same manner, by the same persons, and at the same time as, together with and not separately from, its general taxes. The solid waste collection service charges shall be assessed against the benefitting property and shall be assessed as a lien on the property benefited thereby.

SECTION 4. Pursuant to the authority set forth in Government Code sections 38790.1 and 25831, and Chapter 8.24 of the San Bernardino Municipal Code, on or before August 10, 2024, the City Manager or his designee shall file with the Auditor-Controller/Treasurer/Tax Collector for the County of San Bernardino a copy of the certified Resolution and the report adopted by the City Council. Once such action is taken, the amount of the delinquent charges shall constitute a lien against the lot or parcel of land against which the delinquent charges have been imposed, and

the tax collector shall include the amount of the delinquent charges on bills for taxes levied against the respective lots and parcels of land.

SECTION 5. That the prorated first year interest at 1.5% per month and a penalty of 10% of lien unpaid balance will be added to the delinquent amounts and assessed against the benefitting properties.

SECTION 6. That additional interest shall be charged by the County of San Bernardino if the balance remains unpaid for more than one year.

SECTION 7. That the City Council finds this Resolution is not subject to the California Environmental Quality Act (CEQA) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as in this case, that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 8. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Resolution are declared to be severable.

SECTION 9. Effective Date. This Resolution shall become effective immediately.

APPROVED and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this 17th day of July 2024.

Helen Tran, Mayor
City of San Bernardino

Attest:

Genoveva Rocha, CMC, City Clerk

Approved as to form:

Sonia Carvalho, City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF SAN BERNARDINO)

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Resolution No. 2024-169 adopted at a regular meeting held on the 17th day of July 2024 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
REYNOSO	_____	_____	_____	_____
CALVIN	_____	_____	_____	_____
ALEXANDER	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this 17th day of July 2024.

Genoveva Rocha, CMC, City Clerk