



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: December 5, 2023

Subject

Adopt a maximum rate schedule for Rate Period Four for Recology to provide recycling, organics, and solid waste collection, recycling and organics processing services, and transport for disposal as calculated using the allowed and approved methodology in the Franchise Agreement.

Recommended Action

Adopt Resolution No. 23-XXX (Attachment A) to:

- 1) Adopt a maximum rate schedule for Rate Period Four for Recology to provide recycling, organics, and solid waste collection, recycling and organics processing services, and transport for disposal pursuant to the franchise agreement (Attachment B; (FA Exhibit E2)), and
- 2) Authorize the use of \$547,800 of restricted-use enterprise funds to smooth and mitigate the Rate Period Four adjustment.

Reasons for Recommendation

On December 15, 2020, the City of Cupertino Council approved a new 10-year Franchise Agreement (Attachment B)¹ with Recology South Bay d/b/a Recology Cupertino ("Recology") to provide recycling, organics, and solid waste collection, recycling and organics processing services, and transport for disposal. The Franchise Agreement as adopted included rates for the first three years along with detailed methodologies to calculate rates for each year through the remainder of the agreement term.

The methodology to determine the maximum rates for the upcoming Rate Period Four (RP 4), which begins February 1, 2024, is a cost-based adjustment detailed in Exhibit E.2 to the Franchise Agreement. City and Recology staff calculated the cost-based adjustment as specified, and the resulting rates are hereby presented for approval by the City Council (Exhibit A to the Resolution). Under Exhibit E to the Franchise Agreement,

¹ For ease of use and reduced file size, the attached copy of the franchise agreement has section bookmarks and Recology's original pre-negotiation proposal is not included. The full executed version can be accessed via [Cupertino.org/records](https://cupertino.org/records) and a search for agreement 21-232 or [via this link](#).

“[t]he City Council shall make a good faith effort to approve Rates by January 1 of each year, and such Rates shall be effective on each subsequent February 1.”

The RP 4 adjustment does not include changes to how materials are handled after collection. However, Staff is currently working on an RFP to solicit new options for disposal of garbage, and on May 2, 2023, Council approved incorporating options to process garbage into that RFP. Currently, materials placed in the gray bins and carts (garbage) go directly to landfill. Processing the garbage would recover organic and other recyclable materials that are put into the garbage instead of being sorted properly, reducing the tons sent to landfill by a third or even a half. Processing garbage is more expensive than disposing it directly to landfill, but routing garbage for processing is a recommended action in the City’s Climate Action Plan 2.0 under item W1.2. Any changes in rates that would result from sending garbage to be processed would be addressed during a future rate period adjustment.

Regulation of Maximum Rates

The City does not set the rates for Recology’s provision of solid waste services, but rather approves the maximum rates Recology may charge its customers.

Review of the Rate Period Four Application

On August 1, in accordance with Section 8.2.C of the Franchise Agreement, Recology submitted its RP 4 application. To assess the appropriateness of Recology’s proposed rates, the City engaged a consultant, HF&H, to perform a detailed review of the Recology application, including data about Recology’s costs to provide the proposed services as well as their revenue requirements to cover costs and maintain profitability. The review conducted by HF&H included determining completeness, compliance with the adjustment methodology, mathematical accuracy, reasonableness, and logical consistency of the assumptions supporting the projected revenues and expenses. Details of the analysis are included in HF&H’s report (Attachment C).

Rate Adjustment and Rate Smoothing

Per Recology’s RP 4 application and subsequent review, the overall increase in revenue needed by Recology in the upcoming Rate Period is 5.02%. Based on the cost to provide services, the single-family home residential rates would increase by 12.16% while commercial, multi-family, and roll-off box rates remain unchanged because projected revenues from those sectors are currently adequate to cover the costs to provide service. The increase for single-family home residential rates can be smoothed downward to 5% by using \$547,800 from the Resource Recovery Enterprise Fund. This reserve fund is earmarked for uses that benefit solid waste ratepayers, including smoothing of rate impacts. The City intends to use these funds through the remainder of the 10-year agreement to smooth rates for customers and avoid significant rate jumps in any one year. The recommended rate adjustment for each category of customer after using the Resource Recovery Enterprise Fund is shown in Table 1 below.

Table 1: Application of Rate Adjustments

	Monthly Rate			
Service Type	Current	Rate Period Four (eff. 2/1/2024)	% change	\$ per month change
Residential: 32-gallon garbage cart (bundled with recycling and organics carts)	\$40.18	\$42.19	5%	\$2.01
Commercial/MFD: 1-3yd/1x/week, MSW	\$317.04	\$317.04	0%	\$0
1.5yd/1x/week, Recycling	\$95.12	\$95.12	0%	\$0
1.5yd/1x/week, Organics	\$198.14	\$198.14	0%	\$0

Rate Comparisons with Neighboring Cities

Even with the proposed rate increases, Cupertino rates will be low in comparison with those of neighboring cities. The following tables 2 and 3 show Cupertino's rates in comparison to nearby cities, both currently and with the proposed maximum rate for Rate Period Four.

Table 2: Residential Monthly Rate Comparisons

2023 single-family residential garbage rates per month sorted by 32 gallon cart				
City	20 or 24 gallon cart	32 or 35 gallon cart		Extra per month
Milpitas	\$36.46	\$39.63		
Cupertino	\$37.78	\$40.18	Current	
Mountain View	\$28.90	\$42.10		
Cupertino	\$39.67	\$42.19	5% increase	\$2.01
Campbell	\$34.51	\$42.74		
Sunnyvale	\$38.46	\$44.64		
Los Gatos	\$36.73	\$45.74		
Saratoga	\$37.38	\$46.40		
Los Altos	\$44.98	\$48.45		
Santa Clara	\$41.41	\$49.12		
Palo Alto	\$27.81	\$50.07		
San Jose	n/a	\$51.40		

Note: Rates shown are for July 1, 2023. The rates do not reflect subsequent adjustments including any adjustments for January 1, 2024.

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Table 3: Commercial Rate Comparisons

City	3 CY bin 1x/week
San Jose	\$266.53
Milpitas	\$298.68
Cupertino	\$317.04
Mountain View	\$385.45
Campbell	\$395.23
Santa Clara	\$431.81
Los Gatos	\$488.91
Sunnyvale	\$498.51
Palo Alto	\$504.40
Saratoga	\$566.53
Los Altos	\$570.21

Note: Rates shown are for July 1, 2023. The rates do not reflect subsequent adjustments including any adjustments for January 1, 2024.

Sustainability Impact

Effective waste disposal programs that are convenient, well utilized and properly funded are essential to diverting recyclable and compostable materials from the landfill in accordance with AB939, the California Integrated Waste Management Act that requires at least 50% diversion from landfill after 1/1/2020, the City of Cupertino's Zero Waste Policy adopted December 19, 2017, and compliance with SB 1383 Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions. The City and Recology partner on many of the diversion and waste reduction activities described in the community solid waste measures W-1, W-2, and W-3 in Cupertino's Climate Action Plan 2.0 section "Getting to Zero Waste."

Fiscal Impact

The City expects to receive about \$3.7 million in RP 4 from Recology. These funds are received in the form of Franchise Fees and Solid Waste Fund Operations Fees. As noted earlier, staff recommends using \$547,800 from the Resource Recovery Fund to offset part of the calculated rate increase in Rate Period 4 for the benefit of ratepayers. These costs are already included in the FY2023-24 Final Budget for fund 520, no budget adjustment is necessary. The amount of revenue raised by the fees, and their uses, have been independently evaluated by HF&H.

On December 15, 2020, Council established a minimum reserve in Fund 520-330 of \$500,000 to ensure that drawdown of this fund does not exceed a prudent reserve of 2% of the City's solid waste program operating costs.

Table 4 shows the fiscal impact to the City since the agreement began. Because the current Rate Period (RP 3) is not yet complete and RP 4 is projected, some numbers are not known yet and are shown in italics.

Table 4

Fiscal Summary	Feb 2021 – Jan 2022 (RP 1)	Feb 2022 – Jan 2023 (RP 2)	Feb 2023 – Jan 2024 (RP 3)	Feb 2024 – Jan 2025 (RP 4)
Franchise Fees (for use by Gen. Fund)	\$1,513,007	\$1,771,937	\$2,047,763 <i>(projected)</i>	\$2,140,000 <i>(projected)</i>
Solid Waste Fund Operations Fees (Fund 520 – restricted use)	\$1,396,128	\$1,438,008	\$1,481,148	\$1,635,967
Total Received	\$2,909,135	\$3,209,945	\$3,528,911	\$3,775,967
Use of Fund 520 for rate smoothing	(\$ 686,072)	(\$ 957,082)	(\$ 840,405)	(\$547,800)
Net to City	\$2,223,063	\$2,252,863	\$2,688,506	\$3,228,167

California Environmental Quality Act

Not applicable.

Prepared by: Ursula Syrova, Environmental Programs and Sustainability ManagerReviewed by: Chad Mosley, Director of Public WorksReviewed by: Matt Morley, Assistant City ManagerApproved for Submission by: Pamela Wu, City ManagerAttachments:

A – Draft Resolution

B – Recology Franchise Agreement

C – HF&H Report – Review of Recology RP 4 Application