



PUBLIC WORKS DEPARTMENT

CITY HALL

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CITY COUNCIL STAFF REPORT

Meeting: July 5, 2016

Subject

Consideration of a payment to solid waste franchisee (Recology Cupertino) of \$146,128 for increased costs incurred to process organic materials from October 2015 through June 2016; and establishing a maximum rate schedule which includes a 5.28% increase in maximum rates effective July 1, 2016 to non-residential/multi-family and compactor garbage/compostable materials customers.

Recommended Action

1. Authorize a payment of \$146,128 to Recology Cupertino from the Resource Recovery fund 520-81-801; and
2. Adopt Resolution 16-___(Attachment A) establishing a maximum rate schedule which includes an increase of 5.28% in non-residential/multi-family and compactor garbage/compostable materials customers effective July 1, 2016.

Description

Collection of organic materials at commercial locations is required by State law (AB1826), Cupertino Municipal Code Section 6.24 and the First Amendment of the Franchise Agreement between the City of Cupertino and Recology Cupertino (franchise agreement). The table below shows the timeline and volumes that affect Cupertino businesses per the municipal code:

Chapter 6.24	Requirements for Businesses and Multifamily Premises
September 1, 2015	Businesses with 8 cubic yards/week or more organic material must recycle organics*
January 20, 2016	Businesses with 3 cubic yards/week or more organic material, or 25% of total waste stream is organics, must recycle organics*
July 1, 2018	Businesses with 4 cubic yards/week or more solid waste must recycle organics**

**Excludes Multifamily Dwellings*

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Prior to the implementation of the municipal code amendments, many Cupertino businesses were voluntarily participating in recycling several thousand tons of both commodity materials (cardboard, glass, etc.) and organic materials (food and landscape waste). As the organic requirements of the code were begun to be implemented in 2015, recycling of organic material increased the total amount of commercial materials diverted from going to the landfill to over 6,000 tons or approximately 45%. Diverted commodity materials are processed/segregated by type of material and repurposed while diverted organic materials are processed and finished as organic mulch.

Per the 2014 first amendment of the franchise agreement, the commercial waste diversion goal is 60% (approx. 8000 tons/yr¹). This goal was set to be met by November 2017. With recycling of commodity materials well established, organics were identified as the materials with the most diversion potential into the future. As a result, the City amended the municipal code in May 2015 to require commercial recycling of organics. These requirements, as shown in the above table, are implemented over time and are sensitive to the amount of materials generated by a business. Prior to the implementation of each milestone date, both the City and Recology Cupertino collaborated outreach and education to each business affected. The results of the code amendment and education have been positive. In the first four months of 2016, as compared to the same time period in 2015, 324 tons of additional organic material has been recycled. Assuming this continues for the remaining portion of 2016, annual diversion will grow from over 6,000 tons to an estimated 7000 tons¹. Additional tons will also be added beginning the last six months of 2018 as the final code implementation date becomes effective.

The cost to process organic materials exceeds the costs to landfill the materials by a significant amount. As additional tons are processed, cumulative costs accrue. The recommended actions of this report are to set maximum rates such that Recology Cupertino may charge additional costs incurred from the time period of October 2015 to present. Per the terms of the amended franchise agreement, Recology Cupertino may propose a maximum rate adjustment to cover increased cost of processing commercial compostable materials. A request proposing a maximum rate increase was received by the City from Recology Cupertino in August 2015. This request was subsequently amended by Recology Cupertino on June 10, 2016.

¹Projections of tonnage is variable due to several factors, including but not limited to, food waste reduction as a result of improved inventory management, increases in edible food donations, businesses back-hauling food waste for animal feed or other re-use programs, temporary or permanent closure of businesses due to redevelopment and other business-tenant changes.

To thoroughly evaluate the maximum rate table adjustment requested by Recology Cupertino, staff retained HF&H Consultants (HF&H) to conduct an independent analysis of revenues and expenditures as provided in the amended franchise agreement. The HF&H audit made written findings that the requested adjustment is necessary to cover increased costs of processing organic materials collected at commercial businesses and multi-family developments.

The terms of the amended franchise agreement allow for Recology Cupertino to be reimbursed for costs incurred beginning in October 2015. The options available to complete this reimbursement include a retroactive approval to the maximum rate schedule, a higher effective maximum rate schedule increase going forward or a lump sum payment from the Resource Recovery Reserve Fund. The lump sum payment to Recology Cupertino is recommended and was verified at \$146,128 for the eight (8) month time period of November 1, 2015 through June 30, 2016. The increased maximum rate schedule will be effective July 1, 2016. If authorized, this payment and increase to the maximum rate schedule will be the first for Recology Cupertino for increased costs due to the processing of commercial organics. To date, increases to the maximum rate schedule for all franchise agreement services have been limited to the annual adjustments based on the consumer price index.

In a comparison with other cities in Santa Clara County (for the most commonly subscribed 3 cubic yard bin), the 5.28% increase to the maximum rate schedule is within the low to middle range of amounts charged (Attachment B).

Discussion with Stakeholders and Outreach Conducted

Staff and Recology Cupertino met with the Cupertino Chamber of Commerce Legislative Action Committee on June 3rd to discuss the proposed maximum rate table increase and solicit the Chamber's input. The discussion included the benefits of diverting organic waste from the landfill, why a maximum rate table increase is being proposed and when the maximum rate table increase would be implemented. The Chamber understood the rationale of the proposed increase and complemented staff and Recology Cupertino regarding the outreach and support provided to commercial customers during the implementation of both the September 2015 and January 2016 code requirements.

Shortly after the June 9th mailing, approximately 500 commercial and multi-family customers affected by the proposed maximum rate table increase received their written notice (Attachment C). The notice invited customers to present public comment at the July 5th City Council meeting and provided instructions on several other options for them to submit their comments. Comments received will be shared with Council as part

of the July 5th presentation. On June 14th the notification and rate schedule showing current and maximum proposed rates were posted on the City's website at www.cupertino.org/DisposalRates.

Future Dates and Milestones

The amended franchise agreement expires January 31, 2019 and includes an option to negotiate a new ten-year agreement that could begin as early as January 31, 2017. This option is available only if Recology Cupertino meets specific diversion goals. A report on solid waste diversion projections for the remainder of the franchise agreement will be presented by staff at the September 6, 2016 Council meeting. This report will detail commercial organic diversion and will look ahead to implementation challenges, including but not limited to the July 1, 2018 date to include multi-family complexes into the required organic recycling program.

Sustainability Impacts

CalRecycle reports that of the nearly 35 million tons of waste that reach California's landfills each year, approximately 80% could be recoverable through organics and construction and demolition debris collection programs. Though Cupertino is exceeding existing State mandates for waste diversion, implementation of its mandatory commercial organics ordinance will help the City achieve its zero waste targets recommended by Council in the City's Climate Action Plan, which both align with Assembly Bill 32 goals and reflect those adopted by adjacent jurisdictions. These requirements and the services offered by the City engage the business community in behavioral change that will further reduce consumption, heighten material reuse, and achieve greater emissions reductions.

Fiscal Impact

The Public Works Resource Recovery reserve fund (520-81-801) will allocate \$146,128 to pay Recology Cupertino for eight (8) months of the contract year from November 1, 2015 – June 30, 2016. The Resource Recovery Reserve Fund is a fund dedicated to Solid Waste expenditures and has a sufficient fund balance to cover this expenditure.

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Reviewed by: Timm Borden, Director of Public Works

Approved for Submission by: David Brandt, City Manager

Attachments:

- A - Resolution 16-___ Establishing the Maximum Schedule for Rates and Charges for Nonresidential and Multi-Family Solid Waste Collection Service and Compactor Service
- B - Commercial Service Cost Comparison to Similar Agencies
- C - Notices mailed to all commercial customers