



PUBLIC WORKS DEPARTMENT

CITY HALL

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CITY COUNCIL STAFF REPORT

Meeting: December 19, 2017

Subject

Second Amendment to an Agreement between the City of Cupertino (City) and Recology Cupertino (Recology) for the Solid Waste Services Franchise Agreement

Recommended Action

1. Adopt the draft resolution to approve the Second Amendment to the Solid Waste Services Franchise Agreement, extending the expiration of the current Agreement (November 1, 2010 through January 31, 2019) to January 31, 2021 and including an option to negotiate a new ten year agreement with Recology that could begin as early as January 31, 2021, contingent upon Recology meeting Second Amendment requirements; and
2. Authorize a payment of \$5,365 to Recology Cupertino from the Resource Recovery fund 520-81-801 to cover additional costs to process commercial organic materials collected in calendar year 2016.

Description

The primary purpose of this second amendment is to provide additional time for Recology and the City to effectively implement, establish, and evaluate the final tier of the organics recovery program prior to entering into a new long-term agreement. A secondary purpose is to evaluate a residential outreach and education program currently planned for 2018 and to implement a residential pilot program that will be developed for 2019 based on data collected from the outreach and education conducted in 2018.

The current five-year solid waste services franchise agreement with Recology Cupertino was approved by Council on May 18, 2010 for the period of November 1, 2010 through October 31, 2015. The First Amendment was authorized on September 2, 2014 which extended its term to January 31, 2019.

The 2010 agreement set a 75% residential and employee diversion goal¹. When the agreement was signed, diversion of waste away from landfill in the City was 66% by resident (2.9 pounds per day landfilled per capita) and 65% by employee (5.6 pounds per day landfilled per capita). The below table shows diversion achieved from years 2011 through 2014.

	2011	2012	2013	2014
Residential	68%	70%	62%*	69%
Employees	71%	73%	66%*	72%

**CalRecycle assisted the City in adjusting Cupertino's diversion for 2014 through 2016 to compensate for construction and demolition tonnage generated by the Apple Park (formerly Apple Campus 2) project. Although Apple diverted at least 80% of its construction and demolition waste, the project generated unprecedented tonnage. Without the adjustment, the City's diversion for 2014 would have been 26% for residential and 40% for employment.*

The 2014 amendment extension was done to allow the City and Recology more time to further develop established programs as trends shown in the above table indicated that that achieving the 75% diversion goal by 2015 was unlikely. The first amendment also provided staff and Council time to implement the requirements of the 2014 Assembly Bill 1826². This Bill required all businesses to recycle organics at various levels depending on the total amount of waste generated over a progressive period of time. The first tier of businesses affected by AB1826 and the municipal code chapter 6.24 occurred in September 2015 when all businesses that generated more than eight cubic yards of organic waste were required to recycle these wastes. The second tier occurred in January 2016 when businesses that generated up to three cubic yards of organics were included. The last tier will occur in July 2018 when all businesses that generate four cubic yards of any waste and all multi-family complexes with five or more units must recycle. Increased commercial subscription to organics service as a result of implementation of tier 1 and tier 2 was approximately 2400 tons and 1123 tons per year respectively. CalRecycle diversion numbers for 2016 are not yet available but total business diversion for 2015 was 75%. While these results are promising for businesses, 2015 waste diversion for residents was 65%. Accordingly, the City has not yet met its own goal of recovering, recycling, or composting an overall amount of 75% of all waste generated within Cupertino.

¹ The California Department of Resources Recycling and Recovery (CalRecycle) mandates a minimum of 50% of solid waste away from landfill. Employers and residents of Cupertino have always exceeded the CalRecycle mandate.

² Amendments to Chapter 6.24 of Municipal Code were authorized by Council on May 5, 2015 and require the collection of business generated organic waste consistent with the diversion goals required of the State and as established in the amended Franchise Agreement.

When the last tier of organic recycling is implemented in July 2018, it is estimated that up to 130 tons of additional organic material will be diverted from landfill annually for businesses accompanied by an estimated 74 ton increase in residential diversion due to multi-family organic collection.

Discussion

In addition to allowing more time to evaluate the results of planned programs before framing a new agreement, the second amendment will provide two years for Recology and the City to improve residential diversion by launching targeted outreach and education to increase participation in the City's free curbside food scraps collection program. It will also give the City the opportunity to observe the outcomes of organics programs and pilots recently implemented in neighboring cities. Other changes are proposed primarily to increase efficiency and accountability. Staff will also utilize this time to consider the various available technologies to sort and process waste by cost, ease of use, and diversion achieved.

Second amendment language that directly supports the short term or long term goal of achieving a 75% or greater waste diversion includes:

- Increase collection route frequency, including the addition of Saturday commercial garbage and organic cart service.
- Support City directed and paid pilot programs similar to the City of Santa Clara's split-cart food scrap pilot the Sunnyvale's new residential split cart food scrap collection program.
- Support City directed and paid multi-family valet service pilot program.
- Application of residential cart decals, specifying acceptable and unacceptable material for recycling and composting.
- Submission of information useful for identifying public outreach needs and tracking landfill tonnage more accurately.

Requested Additional Payment to Recology

Recology processed 1,111 more tons of commercial organics in calendar year 2016 than the baseline tonnage of 5,879 tons established in the City led audit of 2015. Per the amended agreement, Recology may request reimbursement for the additional processing cost. Accordingly, Recology has requested this additional cost in the amount of \$5,365 (Attachment D). This amount has been verified for accuracy by the City retained auditor - HF&H. The additional tons processed are a direct result of increasing mandatory collection of organics at businesses. A similar request for organic processing reimbursement was considered on July 5, 2016 when Council authorized a payment to Recology of \$146,128 and raised maximum commercial rates 5.28% effective July 1, 2016.

In 2018, a City directed tonnage audit and waste characterization study will be completed to better understand additional costs that will be incurred after the July 2018 requirement. At that time, staff will calculate a proposed rate increase for organic collection. This will be followed by public education, notification and a public hearing to raise rates in early 2019.

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 state mandates for waste diversion, approval of this amendment supports continued efforts to accelerate zero waste targets recommended by Council in the City's Climate Action Plan, which both align with AB32 goals and reflect those adopted by adjacent jurisdictions.

CEQA Exemption

Staff has determined that this action is exempt from the requirements of the CEQA in that it is not a project which has the potential for causing a significant effect on the environment and is a regulatory action as authorized by State law. This determination is pursuant to the provisions and requirements of the CEQA of 1970, together with related State CEQA Guidelines and Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15307.

Fiscal Impact

Approval of the second amendment results in no additional fiscal impact.

The Resource Recovery fund 520-81-801 (solid waste fund) will be used for the payment of \$5,365 for increased organic processing costs incurred in 2016. No additional funding sources are needed.

Prepared by: Roger Lee, Assistant Director of Public Works

Reviewed by: Timm Borden, Director of Public Works

Approved for Submission by: David Brandt, City Manager

Attachments:

A – Draft Resolution

B – Second Amendment to Franchise Agreement between City of Cupertino and Recology - Redline Version

C – Second Amendment to Franchise Agreement between City of Cupertino and Recology - Clean Version

D - Recology Organic Processing Reimbursement Request (updated from 8-11-17)
E –Franchise Agreement Approved May 18, 2010 and Effective 11-1-10
F – First Amendment to Franchise Agreement 9-2-14