



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow
Barry Ng

**SUBJECT: COMMERCIAL SOLID WASTE
CUSTOMER SERVICE RATES**

DATE: June 12, 2017

Approved

D. D. S. Y. L.

Date

6/15/17

RECOMMENDATION

Adopt a resolution setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Cooperative Agreement and the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organic processing services.

OUTCOME

Approval of the recommendation will increase the maximum commercial solid waste service rates for fiscal year 2017-2018 by 1.79 percent to provide funding required to implement the Recyclery Workers' Wage as per the Cooperative Agreement between the City of San José and Republic Services.

BACKGROUND

At the May 23, 2017 meeting, Council considered staff's recommended Maximum Commercial Solid Waste Services Rates decrease of 2.56 percent for 2017-2018 (see Attachment). During deliberations, the City Attorney recommended and City Council decided to keep the commercial service rates at the 2016-2017 level to allow additional time for the City and Republic Services to complete discussions and potentially resolve an ongoing matter. The City and Republic Services recently resolved the matter and entered into a Cooperative Agreement amending the Franchises Agreement methodology as discussed below. The Cooperative Agreement is subject to Council approval and will also be heard on June 27, 2017.

ANALYSIS

The proposed maximum rates (with an effective date of July 1, 2017) are detailed in the resolution accompanying this report. The 2017-2018 annual revenue requirement amount is proposed at \$60,279,537 per the terms of the Cooperative Agreement between the City of San José and Republic Services to provide for a Recyclery Workers' Wage. This revenue requirement adds \$2,574,305 to the \$57,705,232 revenue requirement calculated for 2017-2018 per the Franchises Agreement methodology. The proposed additional \$2,574,305 will be retained by Republic Services and is for a modified cost of living adjustment and a base rate adjustment to recyclables processing costs. The difference between the rate decrease previously proposed and the rate increase currently proposed is shown in the table below.

<u>Rate Adjustment Method</u>	<u>2017-2018 Rate Revenue Total</u>	<u>Rate Impact</u>
Current Agreement	\$57,705,232	-2.56%
Cooperative Agreement	\$60,279,537	+1.79%
Difference	+\$2,574,305	+4.35%

EVALUATION AND FOLLOW-UP

There is no follow-up to this item.

PUBLIC OUTREACH

On June 6, 2017, Republic Services mailed a letter to notify all customers of the potential 1.79% rate change should it be adopted by the City Council.

This memorandum will be posted on the City's website for the June 27, 2017 City Council meeting.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The proposed additional \$2,574,305 will be retained by Republic Services and is to provide the funding required to implement the Recyclery Workers' Wage as per the Cooperative Agreement between the City of San José and Republic Services. This will not impact the Commercial Solid Waste Franchise Fee or AB939 Fee revenue estimates included in the 2017-2018 Proposed Operating Budget and 2017-2018 Proposed Fees and Charges Report, both of which were released on May 5, 2017.

CEQA

Not a Project, File No. PP10-067 (a), Increase or Adjustment to Fees, Rates & Fares.

/s/

KERRIE ROMANOW
Director, Environmental Services

/s/

BARRY NG
Director, Public Works

For questions, please contact Jo Zientek, Deputy Director, Environmental Services Department, at (408) 535-8557.

Attachment:
May 23, 2017, 2017-2018 Commercial Solid Waste Rates Recommendation Memorandum



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: COMMERCIAL SOLID WASTE
CUSTOMER SERVICE RATES

DATE: May 12, 2017

Approved

D. D. SyL

Date

5/15/17

RECOMMENDATION

1. Hold a Public Hearing to confirm that the proposed Maximum Commercial Solid Waste Services Rates are consistent with the terms of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreements between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services.
2. Adopt a resolution setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total costs for organic processing services.

OUTCOME

Approval of the recommendation will decrease the maximum commercial solid waste service rates for fiscal year 2017-2018 by 2.56 percent.

BACKGROUND

Republic Services provides a commercial solid waste collection program for more than 8,000 businesses citywide utilizing an innovative wet/dry system that has more than tripled the commercial diversion rate since its implementation in 2012. Multiple benefits are provided to San José businesses including customizable services; consistent rates; adherence to new statewide requirements to participate in recycling and organics programs; dedicated service representatives who provide ongoing technical assistance; and online access to billing and service data.

All collected waste is processed at state of the art facilities and recycled to its highest and best use with no material going directly to landfill. The wet/dry program is designed to be flexible and customizable to each individual business, with different options for quantity, size and type of container. Waste is separated into two categories: 1) wet or organic material such as food waste or plant trimmings, and 2) dry material such as clean paper or plastic. Customers choose which bin type works best for their business. The wet/dry program has become a national model and received interest from many agencies that are interested in modeling their own solid waste program after San José's.

Under the Republic Services Franchises Agreement, Council establishes Maximum Commercial Solid Waste Services Rates. The maximum customer service rates vary based on the type of material collected, container type and size, and frequency of collection. The rates are set and may be adjusted each year to satisfy Republic Services' annual revenue requirement, which is the amount needed to fund the cost of operations, including collection equipment and labor, recyclables processing equipment and labor, compensation to Zero Waste Energy Development Company (ZWED) for organics processing, and payment of government fees such as Franchise Fees and AB939 Fees. The revenue requirement also allows Republic Services a profit margin of 17 percent based on allowable operating costs as defined in the Franchises Agreement.

The rate setting methodology adjusts customer rates annually (either up or down) and is designed to protect both the customers and the franchisee by limiting the annual increase allowed; ensuring only certain costs are passed to ratepayers and that Republic Services is compensated appropriately as operating expenses fluctuate from year to year. Both the Republic Services franchises agreement and ZWED agreement include annual inflationary adjustments.

The City Council has approved three amendments to the franchises agreement. The first amendment to the agreement, in December 2012, allowed Republic Services to deliver additional organic waste from businesses to ZWED. In May 2013, Council approved a second amendment that provided a one-time "true-up" adjustment to the revenue requirement in 2013-2014. In May 2015, Council approved the third amendment to the franchises agreement, which clarified the rate setting terms and streamlined the rate setting process.

ANALYSIS

The proposed maximum rates (with an effective date of July 1, 2017) are detailed in the resolution accompanying this report. In addition to collection services, the 2.56 percent rate decrease impacts all associated commercial rates including those for bin cleaning, bin locks, pushing and pulling containers into a serviceable position by the truck drivers, and delivery of containers. The resolution also includes a cost of living adjustment of 3.00 percent to the rates paid to ZWED by Republic Services for organics processing as allowed in ZWED's agreement with the City. The 2017-2018 annual revenue requirement amount is proposed at \$57,705,232. Of this amount, \$36,516,197 is for Republic Services' operations, a portion of ZWED residue, and applicable cost of living adjustments, which comprises 0.89% percent of the total rate adjustment for 2017-2018. The ZWED portion of the revenue requirement is \$6,790,163, a

decrease of \$2,179,424 from the 2016-2017 level due to processing improvements, and covers the cost of anaerobically digesting the organic material, which is -3.68 percent of the total rate adjustment for 2017-2018.

City Fees of \$14,398,872 include a Franchise Fee of \$11,498,872 (to the General Fund) and an AB939 Fee of \$2,900,000 (to the Integrated Waste Management Fund). The Franchise Fee funds services in the General Fund and may be adjusted each year based on the Consumer Price Index. The 2017-2018 Proposed Operating Budget is anticipated to include a \$143,083 (1.26 percent) increase to the Franchise Fee over the 2016-2017 budgeted amount of \$11,355,789 based on this methodology. The AB939 Fee funds several City functions including oversight, administration, and enforcement of the City's commercial solid waste system; a portion of ZWED residue disposal; and targeted commercial sector waste diversion programs, including technical assistance for recycling and outreach. The AB939 Fee may be adjusted each year based on the operating needs of the City and is set at \$2,900,000 for 2017-2018, as shown in the 2017-2018 Proposed Fees and Charges Report, a negligible change from 2016-2017 level of \$2,904,000. Overall, the City Fees portion of the rate increase will be adjusted by \$139,083 which comprises 0.23 percent of the total rate adjustment for 2017-2018.

The table below summarizes the components of the overall decrease of 2.56 percent for 2017-2018.

<u>Adjustment</u>	<u>2016-2017 Total</u>	<u>Annual Revenue Change</u>	<u>2017-2018 Total</u>	<u>Rate Impact</u>
Republic Contract	\$35,990,026	+\$526,171	\$36,516,197	+0.89%
ZWED Contract	\$8,969,586	-\$2,179,423	\$6,790,163	-3.68%
City Fees	\$14,259,789	+\$139,083	\$14,398,872	+0.23%
Total Revenue Requirement	\$59,219,401	-\$1,514,169	\$57,705,232	-2.56%

The City of San José's innovative commercial program continues to attract interest and national recognition; the City's overall diversion rate of 66 percent is above average. The City's rates remain cost competitive with rates charged elsewhere in the San Francisco Bay Area. The table below compares San José's proposed maximum rates for two common service levels with the 2016-2017 rates from 14 nearby jurisdictions with comparable rate structures. The rate adjustments scheduled to occur in other jurisdictions in 2017-2018 are not yet publicly available. Additionally, these other jurisdictions do not provide the same enhanced recycling services offered by Republic Services and ZWED, including one of the largest state of the art materials recycling facilities in the United States, and anaerobic digestion energy production and compost. For Morgan Hill and Gilroy, the rates include some optional additional services such as providing locks, unlocking and relocking bins, and removing and returning containers to trash enclosures. However, in all the other jurisdictions, including San José, these services incur an extra charge. San José's additional services rates will continue to remain lower than average with the recommended rate increase.

**Rate Comparison by City
 Garbage/Wet Container Service**

Current City	3 Cubic Yard Container Collected Once Per Week (monthly rate)	Current City	40 Cubic Yard Container (per collection rate)
Palo Alto*	\$504.40	Palo Alto	\$1,227.59
Sunnyvale*	\$416.21	Mountain View	\$1,205.40
Los Altos	\$380.71	Milpitas	\$1,131.63
Saratoga	\$370.41	Santa Clara	\$1,016.80
Monte Sereno	\$345.86	Cupertino	\$936.21
Morgan Hill	\$340.41	<i>Average</i>	\$920.71
<i>Average</i>	\$307.67	Sunnyvale	\$907.61
Gilroy	\$306.88	Saratoga	\$894.40
Mountain View	\$304.80	Los Gatos	\$873.36
Los Gatos	\$295.13	Gilroy	\$863.82
Campbell	\$257.97	Campbell	\$852.00
Cupertino	\$242.84	†San José Current	\$848.07
San José Current	\$239.73	†San José Proposed	\$826.36
San José Proposed	\$233.59	Fremont	\$813.85
Fremont	\$230.19	Monte Sereno	\$808.04
Santa Clara	\$228.10	Morgan Hill	\$783.70
Milpitas	\$215.48	Los Altos	\$707.07

* Bin rental fee plus hauling.
 † Average of the north and south district rates.

EVALUATION AND FOLLOW-UP

The Commercial Solid Waste Franchise Fee and AB939 Fee are included in the 2017-2018 Proposed Operating Budget and 2017-2018 Proposed Fees and Charges Report, both of which were released on May 5, 2017.

PUBLIC OUTREACH

The Environmental Services Department sent a courtesy letter in April to all businesses served under the Republic Services Franchises Agreement notifying them of a potential rate increase to be considered by Council at its May 23, 2017 meeting. In addition, Republic Services is required to notify all customers of the rate change adopted by City Council at least thirty days before the effective date.

This memorandum will be posted on the City's website for the May 23, 2017 Council meeting.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

Republic Services bills customers at the maximum customer service rates and in 2017-2018 will retain \$36.5 million of the \$57.7 million to fund the cost of their operations, which includes their guaranteed 17 percent profit margin. Republic Services will remit the remaining balance of \$21.2 million between the City (\$14.4 million) as part of the City's Fees and ZWED (\$6.8 million) for organics processing services.

For the City Fees portion (\$14.4 million), the 2017-2018 Proposed Operating Budget released on May 5, 2017 includes anticipated revenue of \$2.9 million for AB939 Fees. Approximately \$400,000 of this amount will be retained by Republic Services to pay for the disposal of ZWED processing residue. The remaining \$2.5 million, as reflected in the Integrated Waste Management Fund, will be used for the associated costs within the Environmental Services Department for the management and administration of the franchise agreement and associated service agreements for the Commercial Solid Waste program. In addition, as the result of a recommended CPI-based increase of 1.26 percent, it is estimated that revenue of \$11.5 million will be received in 2017-2018 for Commercial Solid Waste Franchise Fees.

CEQA

Not a Project, File No. PP10-067 (a), Increase or Adjustment to Fees, Rates & Fares.

/s/

KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Jo Zientek, Deputy Director, Environmental Services Department, at 408-535-8557.