



## Agenda Report

20-134

Agenda Date: 6/23/2020

### REPORT TO COUNCIL

#### **SUBJECT**

Public Hearing: Adoption of a Resolution Setting Rates for Overall Solid Waste Services, Annual Clean-up Campaign, and Household Hazardous Waste in the Exclusive Franchise Area [Council Pillar: 1) Deliver and Enhance High Quality Efficient Services and Infrastructure; 2) Sustainability] Not to be heard prior to 6:00 PM

#### **EXECUTIVE SUMMARY**

The City has entered into new agreements for the collection and processing of garbage and recyclables. The Contractors' scope of services and compensation rates were negotiated and approved by Council on December 10, 2019. R3 Consulting, Inc. conducted a solid waste rate study and recommended that the City implement the rates specified in Table A of the Resolution to enable the Solid Waste enterprise fund to maintain cost recovery for the coming Fiscal Year (FY) 2020/21.

Notices were sent to all 25,837 solid waste rate payers on May 1, 2020 informing them of the proposed rate increases and date of the Public Hearing to approve the rates, as required by Article XIII D of the California Constitution. Following the close of the Public Hearing, staff recommends that Council adopt the subject Resolution, which establishes the solid waste rates effective for the utility bills issued for services rendered on and after July 1, 2020.

#### **BACKGROUND**

In November 1996, California voters approved Proposition 218, which amended the state Constitution to establish a new category of fees and charges referred to as "property-related fees and charges" and created new procedural requirements for their adoption. Under these requirements, water, sewer, and solid waste service fees or charges are subject to a written notice of proposed increases, public hearing on proposed fees or charges not less than 45 days after the mailing of the notice, and majority protest procedure for their approval. At the public hearing, all protests against the proposed fees or charges are tabulated and if the number of protests by a majority of rate payers totals 50 percent plus one, the fees or charges cannot be imposed. If there is not a majority of rate payers protesting the proposed fees or charges, Council can make and act on a motion to approve increases.

The FY 2020/21 Solid Waste Fund budget is \$31,455,000. Programs funded by the Solid Waste budget include garbage, yard trimmings, residential recycling, household hazardous waste collection, disposal and processing; the Cleanup Campaign; street sweeping; landfill post-closure maintenance; and compliance with several State Laws, including Senate Bill 1383 (SB 1383). SB 1383, which was passed in 2016, targets a reduction in the level of statewide disposal of organic waste from the 2014 level; specifically, a 50 percent reduction by 2020 and a 75 percent reduction by 2025. Garbage, Yard Trimmings, Residential Recycling, Clean-up Campaign (CUC), and Household Hazardous Waste (HHW) rates charged to customers fund these programs.

### Council Discussion

The City's prior collection and disposal agreements did not enable the City to meet the statewide organics waste diversion requirements. The City went through a multi-year process to review and provide direction on the new agreements:

- 5/17/17 - Council approval of residential pilot food scraps recycling program
- 9/28/17 & 10/30/17 - Pilot food scraps recycling program public outreach meetings
- 1/30/18 & 10/9/18 - Council update on pilot food scraps program and survey results
- 7/12/18 - Council update on SB 1383 and organics collection program options
- 11/13/18 - Council approval to enter negotiations with Mission Trail Waste Systems (MTWS) and Recology
- 1/29/19 - Council approval of Amendment to Recology agreement and Resolution to participate in future Sunnyvale Materials Recovery and Transfer (SMaRT) Station expansion
- 9/17/19 - Council approval to enter negotiations with GreenWaste Recovery, Inc. (GWR) and proceed with developing MTWS agreement
- 10/21/19 & 10/24/19 - Public outreach meetings on organics collection program options
- 11/4/19 - 11/22/19 - Public outreach survey on organics collection program options
- 12/3/19 - Council authorizes City Manager to execute agreement with Recology
- 12/10/19 - Council authorizes City Manager to execute agreements with MTWS and GWR to implement the mixed waste processing organics diversion program option

### Collection and Disposal

On December 10, 2019, Council authorized the City Manager to execute new agreements with MTWS for the exclusive franchise for the collection and transportation of garbage, organics, and commercial recyclables; and GWR for solid waste processing, transport, recycling and disposal services. With approval of these two new agreements, which become effective July 1, 2020, and expire June 30, 2036, the City secured services that will enable it to meet the organic waste diversion requirements of SB 1383 via mixed waste processing services, which will remove organic materials from garbage without the need for further sorting by solid waste customers. At the December 10 Council meeting staff explained that solid waste rates would need to be increased to fund the services in the new agreements and indicated that a rate study would be presented to the Council with proposed rate increases.

The new mixed waste processing services will start on January 1, 2021, at which time the City's costs for handling and processing garbage and organic waste will increase per the terms of the agreements. As a result of these previous Council-approved contracts that included cost increases, customer rates will need to increase in FY 2020/21. Furthermore, customer rate increases will also be necessary in subsequent fiscal years because the negotiated increases under the MTWS and GWR agreements for mixed waste processing and other programs will not be fully implemented until FY 2022/23.

### Recycling

On December 3, 2019, Council authorized the City Manager to execute a successor agreement with Recology Santa Clara (Recology) to provide residential curbside recycling services that becomes effective July 1, 2020, and expires June 30, 2036. The negotiated base monthly compensation to

Recology will increase because the cost of living adjustments (COLA) provided in the current agreement have not kept pace with solid waste industry costs and the steep decline in the international recyclables commodities markets.

The City also has an agreement with International Disposal Corporation/Browning Ferris Industries (IDC/BFI) to provide solid waste disposal at Newby Island Landfill and composting services at the Recyclery. The agreement has an annual COLA that is tied 80 percent to the change to the CPI from February to February, 10 percent to the Employment Cost Index, which tracks the changes in costs of labor to businesses, and 10 percent to the Gross National Product Implicit Price Deflator, which tracks the change in the measure of the level of prices of all new, nationally produced, final goods and services in an economy.

Costs associated with salaries, benefits, materials, services, supplies, and overhead will increase in FY 2020/21. Due to these anticipated increases, the proposed solid waste rate increases as specified in Table A of the Resolution (Attachment 1) are necessary to enable the Solid Waste Fund to achieve cost recovery.

## **DISCUSSION**

At the June 23, 2020 Public Hearing on the proposed rates, Council will open the Public Hearing to receive any oral protests. The Public Hearing will be the last opportunity for solid waste customers to return written protests. At the close of the Public Hearing, the protests will be tabulated. If a majority of solid waste customers protest the proposed rates, Council will be unable to raise the solid waste rates. If there is not a majority protest of the rates, Council may increase the solid waste rates as specified in Table A of the Resolution.

### **New Agreements Impact on Customer Rates**

On December 10, 2019, Council approved agreements with MTWS and GWR that incorporated maintaining the existing garbage container for residential and commercial business customers and delivering the contents to GWR's mixed waste processing facility to recover food scraps, food-soiled paper, and other organic materials. For cart-service residential customers, the mixed waste processing option was projected to be about 14 percent more expensive than implementing the source separated split-cart organics recycling program. The mixed waste processing option for commercial customers front-load bin was projected to be 6 percent less expensive than the source separated organics in an additional container option. The proposed FY 2020/21 rate increases are very close to the estimates provided in December. The table below shows a comparison between the proposed FY 2020/21 rates to the estimates provided at the December 10 Council meeting.

Service	Estimated FY 2020/21 Rate (12/10/19)	Proposed FY 2020/21 Rate	Difference
Single-family 32-gallon bundled rate (includes yard trimmings, recycling, CUC, HHW)	\$45.10	\$44.10	(\$1.00)
Townhouse 32-gallon bundled rate (includes recycling, CUC, HHW)	\$31.30	\$32.30	\$1.00

Commercial business 3-cubic yard bundled rate, includes 96-gallons/week recycling	\$322.00	\$322.03	\$0.03
Multi-family 3-cubic yard bundled rate, includes 1-cubic yard recycling bin service once a week	\$430.30	\$391.09	(\$39.21)

R3 Consulting Group, Inc. (R3) conducted a rate analysis/cost of service study after Council approved new agreements with MTWS, GWR, and Recology. The proposed slate of rates presented in Table A of Attachment 1 were calculated and analyzed by R3 to ensure that the rates are an accurate reflection of the cost to provide service for the coming FY 2020/21. R3 has provided a letter (Attachment 2) that confirms that proposed rates are in line with the cost to provide service. It should be noted that costs are anticipated to continue increasing in future fiscal years, and that the FY 2020/21 rates will not meet the cost of providing service in future years.

#### Single-Family Residential Service Rates

The proposed solid waste rate increases will result in increases to single-family home customers ranging from \$6.76 per month to \$14.19 per month. Santa Clara's proposed FY 2020/21 rates for residential solid waste services are competitive with other jurisdictions in Santa Clara County based on comparisons with FY 2019/20 rates from other County agencies. Many of the other countywide jurisdictions will be increasing solid waste rates in the near term to keep pace with COLA's due to their service providers, but there is not enough data available to compare to a FY 2020/21 countywide average. Table I (Attachment 3) provides a more detailed comparison of solid waste rates for residential collection services in Santa Clara County. It should be noted that the City's rates denoted in Attachment 3 include the proposed \$5.90 per month charge for the CUC, but no other jurisdiction in the County has an equivalent program.

The summary below shows the impacts of the bundled rate increases on each service level for single-family home customers that receive garbage, Clean Green, recycling, Clean-up Campaign, and Household Hazardous Waste services as well as a comparison to the FY 2019/20 countywide average rate.

Service Level	FY 2019/20 Rate (current)*	FY 2020/21 Rate (Proposed)*	Rate Increase (Proposed)	FY 2019/20 Countywide Average Rate
Supersaver (20-gallon)	\$29.04	\$35.80	\$6.76	\$26.08
Small Cart (32-gallon)	\$36.59	\$44.10	\$7.51	\$34.87
Medium Cart (64-gallon)	\$51.10	\$61.90	\$10.80	\$61.28
Large Cart (96-gallon)	\$65.61	\$79.80	\$14.19	\$87.56

\*Santa Clara rates include the monthly Clean-up Campaign charge that is currently \$5.67/month and proposed to be increased to \$5.90/month in FY 2020/21.

Multi-Family/Commercial Service Rates

The proposed rates for frontload garbage bins and roll-off debris boxes will increase by 23.1 percent in FY 2020/21 for all service levels. The summary below shows the impacts of the rate increases on each service level for multi-family and commercial garbage customers and a comparison to the FY 2019/20 countywide average rate. Santa Clara's rates will be lower than the countywide FY 2019/20 average rates, even with the increases to frontload garbage bin rates.

Service Level	FY 2019/20 Rate (current)	FY 2020/21 Rate (Proposed)	Rate Increase (Proposed)	FY 2019/20 Countywide Average Rate
3 cubic yard bin service 1 time/week	\$261.60	\$322.03	\$60.43	\$340.95
3 cubic yard bin service 5 times/week	\$1,190.30	\$1,465.26	\$274.96	\$1,690.81

Table II (Attachment 4) provides a comparison of solid waste rates for commercial collection services in Santa Clara County. Santa Clara's weekly frontload bin garbage service rates will remain lower than the countywide average. Santa Clara multi-family and commercial business customers that subscribe to frontload bin garbage service will not be required to subscribe to an additional organics container to meet SB 1383 requirements because the contents of the garbage bins will be taken to the GWR mixed waste processing facility to recover the organics for composting. The cost savings of not subscribing to an additional container for organics is not captured in the countywide comparison, which only shows the cost to subscribe to a specific garbage service level.

The Finance Department currently provides ordering and billing services for roll-off debris boxes ordered in the exclusive franchise collection area. MTWS will take over the ordering and scheduling of roll-off debris boxes under the terms of the new agreement. Beginning July 1, 2020, the rate structure for roll-off debris box service will change. There will be a bin rental component that is based on tariff paid to MTWS, plus 10 percent for billing and franchise fees. MTWS will charge customers a disposal fee that is based on actual weight of each filled container multiplied by the disposal rate. Attachment 4 provides comparisons of countywide roll-off debris box rates; some jurisdictions include disposal in the rates presented, but some do not.

A. Garbage Collection Charges:

Customer garbage charges are projected to generate approximately \$22,711,000 in revenue in FY 2020/21. These revenues fund garbage collection and disposal, utility billing services, street sweeping, garbage program administration, and transfers to the Solid Waste Capital Improvement Project Fund to pay for All Purpose Landfill post-closure operations and solid waste financial management system projects.

The garbage collection charges are the largest component of the residential service bundled rate that also includes yard trimmings, residential recycling, CUC, and HHW charges. R3 Consulting's solid

waste rate study determined that the current 20-gallon Super Saver garbage cart rate does not adequately capture the full cost of garbage collection and disposal, and thus should be increased. This is because the costs of collection for any cart are virtually identical, and largely fixed; any variable differences in costs are due to differences in the cost to process and dispose of a cart's contents, which is significantly less than the fixed costs of collection.

The proposed rate for the 20-gallon Super Saver container more accurately reflects the cost of garbage collection and disposal. Rates for single-family and townhouse residential service are proposed to increase between \$5.07 to \$12.50 per month dependent upon the size of the container. The summary below compares the current residential garbage cart charges (which are a portion of the overall customer solid waste rate) with the proposed charges for FY 2020/21.

Garbage container size	Current monthly rate	Proposed monthly rate	Change in monthly rate
Super Saver (20-gallon)	\$7.43	\$12.50	\$5.07
Small (32-gallon)	\$14.98	\$20.80	\$5.82
Medium (64-gallon)	\$29.49	\$38.60	\$9.11
Large (96-gallon)	\$44.00	\$56.50	\$12.50

Rates for commercial front-load bin and drop-body debris box garbage services are proposed to increase by 23.1 percent. Rates for commercial business single-stream and food scraps recycling services, push/pull service, lock jam installations, and bin cleaning will increase by 6 percent. Despite the 23.1 percent increase, Santa Clara's commercial front-load bin rates will remain lower than the FY 2019/20 countywide average (see Attachment 4).

There are three primary factors to increasing the garbage component of the solid waste rates. The contractually obligated tariffs paid to MTWS to collect the garbage will increase by 6 percent on July 1, 2020. The rate to dispose of garbage at Newby Island Landfill is projected to increase from \$49.76 per ton to \$51.25 per ton (+3 percent) on July 1, 2020 per the COLA formula in the disposal agreement. Beginning January 1, 2021, MTWS will transport loads of garbage to the GWR materials recovery facility for processing to capture organic waste and recyclables to comply with SB 1383.

The cost to process mixed waste garbage from single-family and townhouse customers is \$165 per ton, which includes composting of the organic waste recovered, but not landfill disposal of the residual. The cost to process garbage from multi-family and commercial customers is \$171 per ton, which includes processing of the organic waste recovered, but not landfill disposal of the residual. The residual that needs to be disposed of in a landfill will be transported to Newby Island Landfill under the City's disposal agreement at an estimated cost of \$51.25 per ton. Mixed waste processing of the contents of the garbage container to comply with SB 1383 requirements is the largest factor in the rate increases.

#### B. Yard Trimmings Program Charge: \$11.80/month (Increase of \$0.56/month)

The monthly yard trimmings program charge will increase from \$11.24 per month to \$11.80 per month (+5 percent). The monthly Clean Green program charge will generate an estimated \$2,747,000, which will enable cost recovery for services in FY 2020/21.

Effective July 1, 2020, MTWS will receive an increase of 6 percent to its Schedule of Tariffs in accordance with the terms of its exclusive franchise agreement with the City. The City's agreement with IDC/BFI for composting of green waste materials at the Recyclery also contains a cost of living adjustment that is projected to be 3 percent.

C. Residential Recycling Program Charge: \$5.30/month (Increase of \$0.90/month)

The proposed monthly residential recycling charge will increase from \$4.40 per month to \$5.30 per month (+20 percent). Staff estimates that the proposed recycling charge will generate \$2,852,000 in FY 2020/21.

There are two other funding sources for the residential recycling program that help reduce customer rates. A portion of the AB 939 implementation fee, set at \$1.50 per ton of waste disposed at a landfill, is collected at the landfills, paid to the County of Santa Clara, and then directed back to the City to fund landfill diversion programs. This fee is projected to generate approximately \$230,000 in FY 2020/21. The City also expects to receive a \$30,000 used beverage container recycling grant from CalRecycle in FY 2020/21. The proposed monthly residential recycling charge in combination with AB 939 implementation fee revenue and used beverage container funding will generate sufficient revenues to maintain cost recovery for the residential recycling program, which also includes City staff costs and overhead.

The Council previously approved a successor agreement with Recology that includes the fixed base compensation amounts over the next three years shown below.

Fiscal Year	Negotiated annual base compensation paid to Recology
FY 2020/21	\$2,837,000
FY 2021/22	\$3,194,000
FY 2022/23	\$3,635,000

Staff anticipated that the base level of compensation for residential recycling services would increase because operating costs for solid waste collection service providers outpaced the Consumer Price Index over the previous 12 years and revenue for recyclable materials has dropped substantially due to China's National Sword Policy.

The monthly cost per unit served under the successor agreement through FY 2022/23 is less than the four CPI escalated proposals that the City received to provide residential recycling services in 2008 and significantly less costly than recent proposals for similar services received by the City of San Jose and the South Bayside Waste Management Authority. The successor agreement approved by the Council will provide good value for the City over the 16-year term.

D. Clean-up Campaign (CUC) Charge: \$5.90/month (Increase of \$0.23/month)

The CUC charge will increase from \$5.67 per month to \$5.90 per month (+4.1 percent). The City has conducted competitive procurements for trucking services, equipment rental services, and temporary staffing services. All of the agreements for services have COLAs that will increase costs annually. The CUC charges will generate approximately \$2,300,000 to cover the cost of the 2021 CUC.

E. Household Hazardous Waste Charge: \$0.30/month (No Change)

The monthly Household Hazardous Waste charge to residents will remain at \$0.30 per month, which generates about \$172,000 annually. The HHW component of the AB 939 implementation fee, which is set at \$2.60 per ton disposed at landfills, is projected to generate \$160,000 in FY 2020/21, after the County of Santa Clara withholds funds to cover the City's participation in the Countywide HHW Program. These combined revenues are sufficient to cover annual curbside collection costs of motor oil, filters and compact fluorescent bulbs.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of California Environmental Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has not potential for resulting in either a direct change in the environment, or as a reasonably foreseeable indirect physical change in the environment.

### **FISCAL IMPACT**

In total, the solid waste customer charges combined with the AB 939 implementation fee and beverage container recycling grant revenues will generate approximately \$31,219,000 of revenue included in the FY 2020/21 Proposed Operating Budget.

### **COORDINATION**

This report has been coordinated with the Finance Department and City Attorney's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

A notice, as required by Article XIII D of the California Constitution, was mailed to all 25,837 solid waste customers (garbage, Clean Green, recycling, Clean-up Campaign, and Household Hazardous Waste) on May 1, 2020 describing proposed increases to solid waste rates. The notice was sent out more than 45 days prior to the Public Hearing to give customers the opportunity to submit written protests against the proposed rates.

### **ALTERNATIVES**

1. Adopt a Resolution setting the overall rates to be charged to rate payers for the collection and disposal of garbage, refuse, yard trimmings, recycling, annual Clean-up Campaign, and household hazardous waste in the exclusive franchise area, effective for the utility bills issued for services rendered on and after July 1, 2020; or
2. Do not adopt a Resolution to increase the proposed rates to be charged to rate payers for collection and disposal of garbage, refuse, yard trimmings, recycling, Annual Clean-up Campaign, and household hazardous waste in the exclusive franchise area and subsidize FY 2020/21 expenditures with funds from the General Fund.

### **RECOMMENDATION**

Alternative: 1

Adopt a Resolution setting the overall rates to be charged to rate payers for the collection and



disposal of garbage, refuse, yard trimmings, recycling, annual Clean-up Campaign, and household hazardous waste in the exclusive franchise area, effective for the utility bills issued for services rendered on and after July 1, 2020.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Resolution
2. Letter from R3
3. Table I - Monthly Residential Refuse Service Rates in Santa Clara County
4. Table II - Commercial/Industrial Debris Box Refuse Service Rates in Santa Clara County