

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE FIXING AND DETERMINING MAXIMUM COMMERCIAL SOLID WASTE SERVICES RATES IN THE CITY OF SAN JOSE PURSUANT TO THE COMMERCIAL SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION FRANCHISES AGREEMENT BETWEEN THE CITY OF SAN JOSE AND ALLIED WASTE SERVICES OF NORTH AMERICA, LLC DBA REPUBLIC SERVICES INCLUDING THE TOTAL COSTS FOR ORGANICS PROCESSING SERVICES, EFFECTIVE JULY 1, 2023

WHEREAS, on June 21, 2011, the City of San José (the “City”) granted exclusive franchises to Allied Waste Services of North America, LLC dba Allied Waste Services of Santa Clara County, currently doing business as Republic Services (“Republic Services”) to provide commercial solid waste and recyclable materials collection from commercial, industrial and institutional waste generators; and

WHEREAS, the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement (the “Agreement”) fully executed on September 16, 2011 provides that the City shall fix and determine the maximum rates for commercial solid waste services provided through these exclusive franchises; and

WHEREAS, the Agreement sets forth the basis for the adjustment of rates including but not limited to the cost of operation, profit, recyclables and organics processing costs, and government fees; and

WHEREAS, in December 2012, the City Council approved an amendment to the Agreement to provide for the delivery of additional organic waste from businesses to Zero Waste Energy Development Company (“ZWED”); and

WHEREAS, in May 2013, the City Council approved a second amendment to the Agreement that provided a one-time “true-up” adjustment to the revenue requirements in 2013-2014; and

WHEREAS, in May 2015, the City Council approved a third amendment to the Agreement that clarified the rate setting terms and streamlined the rate setting process; and

WHEREAS, the agreement between the City and ZWED for organics processing services sets forth the formula for determining the total processing fee, and requires that the fee be reviewed by the City Council; and

WHEREAS, on May 3, 2016, the City Council adopted Resolution No. 77738 to fix and determine the maximum commercial solid waste services rates in the City effective July 1, 2016; and

WHEREAS, on May 23, 2017, the City Council adopted Resolution No. 78178 to maintain the maximum commercial solid waste services rates adopted in Resolution No. 77738 pending the resolution of a dispute with Republic Services over certain terms of the Agreement that would have had an impact on how the City Council would set the maximum commercial solid waste services rates; and

WHEREAS, in August 2017, the City Council approved a fourth amendment to the Agreement that addressed the applicability of the City’s Living Wage Policy to Recyclery Workers; and

WHEREAS, on August 22, 2017, the City Council adopted Resolution No. 78318 to revise the maximum commercial solid waste rates for the remainder of fiscal year 2017-

2018 to provide funding to implement the “Recyclery Workers’ Wage” in accordance with the Cooperative Agreement and Fourth Amendment to the Agreement; and

WHEREAS, on May 22, 2018, the City Council adopted Resolution No. 78602 setting the maximum commercial solid waste services rates in the City effective July 1, 2018; and

WHEREAS, on May 21, 2019, the City Council adopted Resolution No. 79099 setting the maximum commercial solid waste services rates in the City effective July 1, 2019; and

WHEREAS, on February 25, 2020, the City Council adopted Resolution No. 79415 authorizing the City Manager to negotiate and execute amended and restated agreements with Republic Services and ZWED to modify the commercial solid waste system and to extend the agreement by five (5) years; and

WHEREAS, the City Council also approved a settlement agreement among the City, Republic Services, International Disposal Corp. of California (Republic Services affiliate), ZWED, and Greenwaste Recovery, Inc. (ZWED affiliate) wherein all parties released any legal claims against each other. The effectiveness of this settlement agreement is contingent on the amended and restated agreements between all parties, which serve as consideration for the settlement; and

WHEREAS, the amended and restated agreements have been executed by ZWED and Republic Services and modifications to the commercial collection system made by the amended and restated agreements went into effect on May 3, 2020; and

WHEREAS, on May 19, 2020, the City Council adopted Resolution No. 79525 setting the maximum commercial solid waste services rates in the City of effective July 1, 2020; and

WHEREAS, on May 18, 2021, the City Council adopted Resolution No. 80007 setting the maximum commercial solid waste services rates in the City of effective July 1, 2021; and

WHEREAS, on May 17, 2022, the City Council adopted Resolution No. 80503 setting the maximum commercial solid waste services rates in the City of effective July 1, 2022; and

WHEREAS, the City Council wishes to set the maximum commercial solid waste services rates in the City effective July 1, 2023;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. Effective July 1, 2023, the Maximum Commercial Solid Waste Service Rates that may be charged to customers receiving commercial solid waste and recyclable materials collection service from exclusive franchises shall be as set forth in Exhibit A and including the organics processing cost as set forth in Exhibit B, both of which are attached to and incorporated in this Resolution.

SECTION 2. This Resolution shall supersede Resolution No. 80503.

SECTION 3. The Maximum Commercial Solid Waste Service Rates set forth in this Resolution shall remain effective until they are amended, modified or repealed by a subsequent resolution of the City Council.

ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

EXHIBIT A

**MAXIMUM SERVICE RATES FOR COMMERCIAL SERVICE FOR CUSTOMERS
EFFECTIVE JULY 1, 2023**

A. Maximum Service Rates Per Month for Standard Cart Services:

Dry and Recyclable Materials

Cart Size (gallons)	Collections Per Week					
	1	2	3	4	5	6
32	\$83.18	\$164.25	\$245.31	\$326.36	\$407.42	\$488.46
64	\$98.96	\$195.44	\$291.93	\$388.36	\$484.85	\$581.32
96	\$123.70	\$244.31	\$364.87	\$485.46	\$606.03	\$726.63

Wet Material

Cart Size (gallons)	Collections Per Week					
	1	2	3	4	5	6
32	\$103.96	\$205.27	\$306.63	\$407.95	\$509.28	\$610.60
64	\$123.70	\$244.31	\$364.87	\$485.46	\$606.03	\$726.63
96	\$154.63	\$305.36	\$456.10	\$606.83	\$757.57	\$908.29

B. Maximum Service Rates Per Month for Standard Bin Services:

Dry and Recyclable Materials

Bin Size (cubic yards)	Collections Per Week					
	1	2	3	4	5	6
1	\$190.83	\$369.54	\$546.47	\$725.66	\$904.80	\$1,081.77
1.5	\$208.96	\$404.67	\$598.41	\$794.59	\$990.76	\$1,184.54
2	\$227.10	\$439.75	\$650.31	\$863.52	\$1,076.72	\$1,287.31
3	\$266.53	\$514.38	\$762.24	\$1,015.45	\$1,260.63	\$1,511.14
4	\$305.95	\$590.47	\$874.96	\$1,159.46	\$1,444.02	\$1,728.54
6	\$382.89	\$738.98	\$1,095.07	\$1,454.98	\$1,811.07	\$2,170.99
8	\$463.60	\$894.69	\$1,325.90	\$1,752.40	\$2,183.53	\$2,614.66

EXHIBIT A

Wet Material

Bin Size (cubic yards)	Collections Per Week					
	1	2	3	4	5	6
1	\$238.55	\$461.95	\$683.12	\$907.07	\$1,131.04	\$1,352.20
1.5	\$261.21	\$505.83	\$748.01	\$993.23	\$1,238.46	\$1,480.68
2	\$283.88	\$549.71	\$812.91	\$1,079.41	\$1,345.87	\$1,609.14
3	\$333.13	\$642.97	\$952.84	\$1,269.33	\$1,575.80	\$1,888.96
4	\$382.42	\$738.05	\$1,093.71	\$1,449.36	\$1,805.03	\$2,160.68
6	\$478.60	\$923.73	\$1,368.87	\$1,818.73	\$2,263.83	\$2,713.74
8	\$579.49	\$1,118.40	\$1,657.37	\$2,190.50	\$2,729.40	\$3,268.33

C. Maximum Service Rates for Compactor Service:

Dry and Recyclable Materials: \$34.44 per collection per cubic yard

Wet Material: \$43.06 per collection per cubic yard

D. Maximum Service Rates for Additional Collections:

1. Maximum Service Rates Per Collection for Extra Cart or Bag Collection

Cart or Bag Size (gallons)	<i>Dry and Recyclable Materials</i>		<i>Wet Material</i>	
	Regular Collection Day	Non-Regular Collection Day	Regular Collection Day	Non-Regular Collection Day
32	\$28.79	\$126.99	\$36.00	\$158.73
64	\$34.25	\$132.44	\$42.80	\$165.58
96	\$42.80	\$141.04	\$53.52	\$176.27

EXHIBIT A

2. Maximum Service Rates Per Collection for Extra Bin Collection

Bin Size (cubic yards)	<i>Dry and Recyclable Materials</i>		<i>Wet Material</i>	
	Regular Collection Day	Non-Regular Collection Day	Regular Collection Day	Non-Regular Collection Day
1	\$57.25	\$155.46	\$71.58	\$194.32
1.5	\$62.67	\$160.91	\$78.35	\$201.13
2	\$68.13	\$166.33	\$85.18	\$207.93
3	\$79.96	\$178.21	\$99.95	\$222.73
4	\$91.78	\$190.00	\$114.73	\$237.49
6	\$114.89	\$213.09	\$143.61	\$266.35
8	\$139.10	\$237.29	\$173.86	\$296.63

3. Maximum Service Rates Per Collection Per Cubic Yard for Compactor Collection

	<i>Dry and Recyclable Materials</i>		<i>Wet Material</i>	
	Regular Collection Day	Non-Regular Collection Day	Regular Collection Day	Non-Regular Collection Day
Rate Per Collection Per Cubic Yard	\$44.77	\$64.58	\$55.97	\$80.72

EXHIBIT A

E. Maximum Service Rates for Extra Services:

<i>Type of Service</i>	<i>Rate Information</i>	<i>Maximum Rate</i>
Hasp & Lock for Cart/Bin (one time charge)	Per Collection	\$29.47
Replace Lock	Per Collection	\$68.74
Steam Cleaning	Per Collection	\$98.19
Push/Pull Charge (per increment of 50 ft)	Per Month, Per Increment of 50 ft, Per Bin, Per Collection	\$39.29
Lock/Unlock Charge	Per Month, Per Collection	\$39.29
Cart/Bin Delivery/Pick-Up	Extra rate if customer requests a change in cart/bin size more than once/year	\$68.74
Cart/Bin Exchange/Replacement (in the event of damage, service level change, or other)	Extra rate if customer requires cart/bin replacement (one replacement per year at no cost)	\$68.74
Return Rate	Extra rate if customer container is blocked or unserviceable & franchisee has to return to provide service	\$98.19
Service Interrupt Fee	Per Occurrence	\$58.91
Late Fee	After 60 days past due	1.50% of Past Due Amount
Insufficient Funds Fee	Per Occurrence	\$58.91

EXHIBIT A

F. Maximum Service Rates for Drop Box Services:

- 1. Regularly Scheduled Roll Off Collection Service** (Per Pull/Return, not including initial delivery rate, which is charged separately. Excludes compactors.)

Dry and Recyclable Materials

Receptacle	Rate Information	Tonnage Limit	Maximum Rate, North District	Maximum Rate, South District
10 cubic yard roll off	Per Pull/Return	2	\$648.17	\$746.38
20 cubic yard roll off	Per Pull/Return	3	\$775.85	\$874.04
30 cubic yard roll off	Per Pull/Return	4	\$903.51	\$1,001.70
40 cubic yard roll off	Per Pull/Return	5	\$1,031.19	\$1,129.39
Customer Owned Compactors	Per Yard/Pull/Return	0.20 per yard	\$38.68	\$40.78

Wet Material

Receptacle	Rate Information	Tonnage Limit	Maximum Rate, North District	Maximum Rate, South District
10 cubic yard roll off	Per Pull/Return	2	\$687.45	\$785.65
20 cubic yard roll off	Per Pull/Return	3	\$834.78	\$932.98
30 cubic yard roll off	Per Pull/Return	4	\$982.08	\$1,080.29
40 cubic yard roll off	Per Pull/Return	5	\$1,129.39	\$1,227.59
Customer Owned Compactors	Per Yard/Pull/Return	0.20 per yard	\$44.62	\$47.05

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Landscape Greenwaste (no glass)

Receptacle	Rate Information	Tonnage Limit	Maximum Rate, North District	Maximum Rate, South District
20 cubic yard roll off	Per Pull/Return	3	\$658.03	\$756.21
30 cubic yard roll off	Per Pull/Return	4	\$746.38	\$844.59
40 cubic yard roll off	Per Pull/Return	5	\$834.78	\$932.98

2. On-Call Roll-Off Collection Service (Per Pull/Return, not including initial delivery rate, which is charged separately. Excludes compactors.)

Dry and Recyclable Materials

Receptacle	Rate Information	Tonnage Limit	Maximum Rate, North District	Maximum Rate, South District
10 cubic yard roll off	Per Pull/Return	2	\$687.45	\$795.48
20 cubic yard roll off	Per Pull/Return	3	\$815.12	\$923.14
30 cubic yard roll off	Per Pull/Return	4	\$942.80	\$1,050.84
40 cubic yard roll off	Per Pull/Return	5	\$1,070.46	\$1,178.49
Customer Owned Compactors	Per Yard/Pull/Return	0.20 per yard	\$40.61	\$42.80

EXHIBIT A

Wet Material

Receptacle	Rate Information	Tonnage Limit	Maximum Rate, North District	Maximum Rate, South District
10 cubic yard roll off	Per Pull/Return	2	\$726.74	\$834.78
20 cubic yard roll off	Per Pull/Return	3	\$874.04	\$982.08
30 cubic yard roll off	Per Pull/Return	4	\$1,021.36	\$1,129.39
40 cubic yard roll off	Per Pull/Return	5	\$1,168.67	\$1,276.69
Customer Owned Compactors	Per Yard/Pull/Return	0.20 per yard	\$46.85	\$49.40

Landscape Greenwaste (no glass)

Receptacle	Rate Information	Tonnage Limit	Maximum Rate, North District	Maximum Rate, South District
20 cubic yard roll off	Per Pull/Return	3	\$697.28	\$805.30
30 cubic yard roll off	Per Pull/Return	4	\$785.65	\$893.70
40 cubic yard roll off	Per Pull/Return	5	\$874.04	\$982.08

EXHIBIT A

3. Other Miscellaneous Roll-Off Services

<i>Type of Service</i>	<i>Receptacle</i>	<i>Rate Information</i>	<i>Maximum Rate</i>
Demurrage Charge (e.g., rental charge)	All roll-off sizes	Per week*	\$324.09
Delivery Service	All roll-off sizes	Per Occurrence for delivery to collection site	\$127.68
Overage Charge—Dry and Recyclable Materials	All roll-off & compactor sizes	Per Ton for Each Ton in Excess of Limit	\$127.68
Overage Charge—Wet Material	All roll-off & compactor sizes	Per Ton for Each Ton in Excess of Limit	\$147.32
Overage Charge— Landscape Greenwaste (no glass)	All roll-off & compactor sizes	Per Ton for Each Ton in Excess of Limit	\$88.40
Hasp & Lock for Roll Off, one time charge	Not Applicable	Per Occurrence	\$29.47
Return Rate	Not Applicable	Extra rate if customer container is blocked or unserviceable & franchisee has to return to provide service	\$98.19
Relocation Charge	All roll-off box sizes	Per Relocation	\$147.32
Steam Cleaning or Compactor Repairs	All roll-off box sizes	Per Hour (parts billed separately)	\$294.62
Service Interrupt Fee	Not Applicable	Per Occurrence	\$58.91
Late Fee	Not Applicable	After 60 days past due	1.50%
Insufficient Funds Fee	Not Applicable	Per Occurrence	\$58.91
*Extra charge if a customer subscribing to temporary service keeps the box longer than seven (7) days without pickup or return.			

NVF:RBT:JMD
5/3/2023

EXHIBIT B

TOTAL ORGANICS PROCESSING FEE 2023-2024
\$18,513,582