



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

SUBJECT: COMMERCIAL SOLID WASTE
CUSTOMER SERVICE RATES

DATE: April 30, 2018

Approved

D. D. S. L.

Date

5/11/18

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 Agreement between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services; and
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 organics processing services.

OUTCOME

Approval of the recommendation will increase the maximum commercial solid waste service rates for fiscal year 2018-2019 by 2.79 percent.

BACKGROUND

Republic Services' Wet/Dry commercial solid waste collection program, which serves more than 8,000 businesses citywide, ensures all collected waste is processed and recycled to its highest and best use with no material going directly to landfill. The 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 and are provided with consistent rates; compliance with statewide requirements to participate in recycling and organics diversion programs; dedicated service representatives who provide ongoing technical assistance; and online access to billing and service data. The Wet/Dry system was designed and is required to achieve 80% diversion which is currently 75%.

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 dollar 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 service, 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.

ANALYSIS

The proposed maximum rates (with an effective date of July 1, 2018) are detailed in the resolution accompanying this report. In addition to collection services, the 2.79 percent rate increase 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 3.30 percent to the rates paid to ZWED by Republic Services for organics processing as allowed in ZWED's agreement with the City.

The 2018-2019 annual revenue requirement amount is proposed at \$61,965,959. Of this amount, \$40,207,540 is for Republic Services' operations, a portion of ZWED residue, and applicable cost of living adjustments, which comprises 1.85 percent of the total rate adjustment for 2018-2019. The ZWED portion of the revenue requirement is \$7,314,621, an increase of \$524,371 from the 2017-2018 level, which covers the cost of anaerobically digesting the organic material and is 0.87 percent of the total rate adjustment for 2018-2019. The ZWED portion also includes a \$884,074 reduction in processing costs to correct for an error in Republic Services' calculation of the tonnage attributed to San José businesses.

City Fees of \$14,443,798 include a Franchise Fee of \$11,743,798 (to the General Fund) and an AB939 Fee of \$2,700,000 (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 2018-2019 Proposed Operating Budget is anticipated to include a \$244,926 (2.13 percent) increase to the Franchise Fee over the 2017-2018 budgeted amount of \$11,498,872 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 \$2,700,000 for 2018-2019, as shown in the 2018-2019 Proposed Fees and Charges Report, which is \$200,000 less than the 2017-2018 level due to reduced residue disposal and administrative costs. Overall, the City Fees portion of the rate increase will be adjusted by \$44,926, which comprises 0.07 percent of the total rate adjustment for 2018-2019.

The table below summarizes the components of the overall increase of 2.79 percent for 2018-2019.

<u>Adjustment</u>	<u>2017-2018 Total</u>	<u>Annual Revenue Change</u>	<u>2018-2019 Total</u>	<u>Rate Impact</u>
Republic Contract	\$39,092,002	+\$1,115,538	\$40,207,540	+1.85%
ZWED Contract	\$6,790,250	+\$524,371	\$7,314,621	+0.87%
City Fees	\$14,398,872	+\$44,926	\$14,443,798	+0.07%
Total Revenue Requirement	\$60,281,124	+\$1,684,835	\$61,965,959	2.79%

The City's rates will remain lower than average following the recommended rate increase compared to rates charged elsewhere in the San Francisco Bay Area. The table in Attachment A compares San José's proposed maximum rates for two common service levels with the 2017-2018 rates from 14 nearby jurisdictions with comparable rate structures. Furthermore, these other jurisdictions do not provide the same enhanced recycling services offered by Republic Services and ZWED, which includes processing all collected materials and anaerobic digestion of organics to produce energy and compost.

EVALUATION AND FOLLOW-UP

The Commercial Solid Waste Franchise Fee and AB939 Fee are included in the 2018-2019 Proposed Operating Budget (released May 1, 2018) and 2018-2019 Proposed Fees and Charges Report (released May 4, 2018).

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 22, 2018 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 22, 2018 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 2018-2019 will retain \$40.2 million of the \$61.9 million to fund the cost of their operations, which includes their guaranteed 17 percent profit margin. Republic Services will remit the remaining balance of \$21.7 million between the City (\$14.4 million), as part of the City's Fees, and ZWED (\$7.3 million) for organics processing services.

For the City Fees portion (\$14.4 million), the 2018-2019 Proposed Operating Budget released on May 1, 2018 includes anticipated revenue of \$2.7 million for AB939 Fees. Approximately \$300,000 of this amount will be retained by Republic Services to pay for the disposal of ZWED processing residue. The remaining \$2.4 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 Franchises Agreement and associated service agreements for the Commercial Solid Waste program. In addition, as the result of a recommended CPI-based increase of 2.13 percent, it is estimated that revenue of \$11.7 million will be received in 2018-2019 for Commercial Solid Waste Franchise Fees.

CEQA

Statutorily Exempt, File No. PP17-005, CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges.

/s/

KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Shikha Gupta, Interim Deputy Director, Environmental Services Department, at 408-535-2520.

Enclosures: Attachment A. Rate Comparison by City

Attachment A. Rate Comparison by City

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	Mountain View	\$1,229.55
Sunnyvale*	\$416.21	Palo Alto**	\$1,227.59
Los Altos	\$392.74	Milpitas‡	\$1,132.57
Saratoga	\$387.64	Santa Clara	\$1,052.40
Monte Sereno	\$363.88	Sunnyvale*	\$991.45
Morgan Hill‡‡	\$340.41	Cupertino	\$965.79
Average (non-San Jose)	\$327.34	Average (non-San Jose)	\$962.30
Los Gatos	\$319.54	Los Gatos	\$926.21
Mountain View	\$310.90	Fremont**††	\$909.02
Gilroy‡‡	\$306.88	Saratoga	\$902.87
Campbell	\$271.21	San José Proposed†***	\$887.34
Milpitas	\$263.93	Monte Sereno	\$885.91
San José Proposed***	\$250.83	Campbell	\$871.96
Cupertino	\$250.51	San José Current†	\$868.34
San José Current	\$245.46	Gilroy	\$863.82
Santa Clara	\$228.10	Morgan Hill	\$783.70
Fremont	\$226.39	Los Altos‡	\$729.41

* Bin rental fee plus hauling

**Includes delivery fee

*** The *San José Current* rates only apply for 10 months instead of the usual 12. Therefore, the *San José Proposed* rates apply the 2.79% adjustment to the 12-month rate, not the 10-month rate shown

† Average of the north and south district rates

†† 2018-19 rates

‡ Additional disposal charges exist, but not shown

‡‡ Includes optional lock/unlock and push/pull service to remove and return containers to trash enclosures. These services are extra charges in all other jurisdictions including San José.