



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** COUNTY MANAGER: OFFICE OF SUSTAINABILITY

**File #:** 22-912

Board Meeting Date: 11/15/2022

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**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Carolyn Bloede, Director, Office of Sustainability

**Subject:** Setting a Public Hearing for 2023 Garbage and Recyclables Collection Rates in Unincorporated Franchised Area

### **RECOMMENDATION:**

Adopt a resolution setting Tuesday, January 17, 2023, at 9:30 a.m. at the regularly scheduled Board of Supervisors meeting, as the time and place for a public hearing on the garbage and recyclables collection rates for Unincorporated Franchised Area for calendar year 2023.

### **BACKGROUND:**

On October 20, 2009, this Board adopted Resolution No. 070423 which approved a franchise agreement with Recology San Mateo County (Recology) to provide services for the collection of recyclable materials, organic materials, and garbage from January 1, 2011, through December 31, 2020. On June 4, 2019, this Board adopted Resolution No. 076641 approving the amended and restated Recology Franchise Agreement for an additional 15-year term expiring on December 31, 2035.

Solid Waste collection services are provided to County Service Area No. 8 (CSA-8) and the Unincorporated Franchised Area (CFA) within the South Bayside Waste Management Authority (SBWMA) service area (Burlingame to Menlo Park).

On February 11, 2020, this Board adopted Resolution No.077213, approving a 5 percent (5%) rate increase for calendar year (CY) 2020, for the 20-,32-gallons size garbage carts for CFA, which were effective on February 1, 2020.

On February 23, 2021, this Board adopted an Appropriations Transfer Request (ATR) No. ATR21-040 appropriating \$31,847 from Non-General Fund General Reserves to Services and Supplies to offset any increases for Recology in garbage and recycling rates in CFA for CY 2021. The effective rates were reaffirmed for CY 2021, and these same rates were also used in CY 2022.

The process to be followed for adopting the garbage and recyclables collection rates includes:

1. Adopt a Resolution of the proposed collection rates Exhibit A and Exhibit B to the Resolution and,
2. Hold a public hearing and receive testimony on the proposed rates.

Articles XIIC and XIID of the State Constitution (Proposition 218), require notices be sent to property owners alerting them of the public hearing to consider any new or increased property related fees (rates), and a mechanism for rejecting the fees (rates) via a “majority protest” at the public hearing.

We are recommending that the Board direct the Department to notify each affected property owner in the CFA of the proposed rates by mail and to explain that protests to the fees (rates) must be in writing. In addition, the Office of Sustainability will post a notice in a newspaper of general circulation informing the public of the hearing on garbage and recyclables collection rates for the service area (Exhibit C to the Resolution).

If there was a successful majority protest in writing from the property owners, this Board would be prevented from increasing the rates for the service area. In CFA, this action could lead to larger rate increases in the future due to the interest that would be assessed according to the terms in the amended Franchise Agreement.

#### **DISCUSSION:**

The proposed rates for CFA are listed in Exhibit A to the Resolution and represent a 4.0 percent (4%) rate increase for residential services (20-, 32- or 64-gallon cart) and aligning the 32- and 64-gallon cart mixed/commercial unit rates from the rates previously set by your Board in CY 2020. These same rates were reaffirmed and applied in CY 2021, and CY 2022. The rate increase also reflects a change in the percentage for the discount (from 25 percent (25%) to 15 percent (15%)) for commercial customers subscribing to organic recycling services.

The current Recology franchise agreement allows for adjustments in Recology’s compensation to support providing services to the rate payers. To make adjustments for the rate year CY 2023, Recology is required to submit a contractor’s compensation application based on actual services provided in CY 2022, the reconciliation of the actual revenue received for CY 2021, and the projected costs for providing service in the CY 2023 rate year. The application was submitted to the SBWMA for their review and approval.

The SBWMA reviewed and compiled data from the Recology compensation application, data from South Bay Recycling (Shoreway Environmental Center operator), and information regarding member agency fees and other associated costs into a consolidated rate report “SBWMA Amended Final Report Reviewing the 2023 Recology Compensation Application, September 15, 2022” (SBWMA 2023 Rate Report). The rate increases or decreases recommended in the SBWMA 2023 Rate Report represent rate adjustments for each member agency that the SBWMA believes are necessary to meet the revenue cost requirements to provide garbage and recyclables collection services for CY 2023.

The cost adjustment methodology prescribed in the SBWMA 2023 Rate Report for rate year Thirteen (CY 2023) is due primarily to a compensation increase based on Consumer Price indices and service levels adjustments for the increase in organic collection services. There was also a direct fuel index increase of 40.6 percent (40.6%) and a Recology performance incentive/disincentive payment adjustment. The SBWMA also anticipates later this year increases of 9-10 percent (9-10%) for Recology services to increase the reporting and auditing requirements for organics collection

services to meet the requirements in the new state legislation SB 1383. In the SBWMA 2023 Rate Report, Recology's compensation is allocated each year based on the updated indices and statistics. Therefore, the percent of cost allocated to each Member Agency changes each rate year.

The SBWMA 2023 Rate Report indicated a 1.3 percent (1.3%) increase is needed for rate year CY 2023. The report also indicated Recology costs are sufficient to cover collection costs, but the report indicates an overall shortfall of \$46,851 due to disposal and processing services for the rate year.

The Office of Sustainability conducted an analysis of the rates based upon the SBWMA 2023 Rate Report, the projection of anticipated costs, and the current revenue collected. Based upon this analysis the Office of Sustainability is recommending a 4 percent (4.0%) rate increase for 20-, 32- and 64-gallon residential cart sizes and increasing the mixed-use /commercial (32- and 64-gallon) cart size to better align rates to the costs of services. The County has not increased rates in this service area to meet the cost projections since February 2020. In CY 2021, the County paid the revenue shortfall of \$31,847 for Recology's services from the CFA reserves. Due to increases in fuel, labor costs and the new programs needed for SB1383 implementation, staff recommends the County incrementally increase rates for the new programs to avoid double digit rate increases in the future.

The recommended rates would be effective on January 1, 2023. Additionally, any Unscheduled Services (Recology Franchise Agreement-Attachment Q Services) requested by the customer will be billed directly to the customer by Recology and effective January 1, 2023.

The proposed rates for commonly used residential garbage carts are as follows; 20- gallon cart will be \$36.74 per month (\$1.41 cents increase per month), a 32-gallon garbage cart will be \$43.67 per month (\$1.68 cents increase per month) and a 64-gallon garbage cart will be \$64.43 per month (\$2.48 cents increase per month). The proposed rate for one 32-gallons cart for mixed-use/commercial units that typically contain over four units will be \$36.74 per month (\$1.78 cents increase per month) to begin to align with the cost of service and residential rates, mixed use properties pay separately for organic waste collection services. In the past, commercial organic rates were discounted by 25 percent (25%) from the garbage rates for organic collection service to increase subscriptions for services. Due to the SB 1383 mandatory organics collections requirement and increased outreach, technical assistance, monitoring, route reviews, inspection and enforcement, staff recommends reducing this discount to 15 percent (15%) of the garbage rate to continue to encourage subscriptions but to also align rates to cover additional costs to manage these new organic commercial programs. The recommended rates will continue to reflect a five percent (5%) franchise fee that will be paid to the County from Recology for administration of these programs.

The franchise agreement also includes fees for Unscheduled Services (Exhibit B to the Resolution, Attachment Q of the Franchise Agreement). The Unscheduled Services are generally those additional elective services that are specifically requested and paid for by the ratepayers in addition to the basic collection service charges. These Unscheduled Services fees are not property related fees and, therefore, not subject to the Proposition 218 rate setting requirements. The franchise agreement allows for a Consumer Price Index (CPI) increase to the Unscheduled Services Fees. The Unscheduled Service Fees for CY 2023 reflects a 4.18 percent (4.18%) CPI adjustment to the 2023 fees charged by Recology. These fees are reflected in Exhibit B to the Resolution.

County Attorney has reviewed and approved the Resolution as to form.

**FISCAL IMPACT:**

There is no impact to Net County Cost

The proposed rates reflect a 4 percent (4.0%) rate increase for services (20-gallons, 32-gallons and 64-gallon carts) and aligning the mixed-use commercial (32- and 64- gallons) for 2023 over the current rates. The rates also reflect the discount change from 25 percent (25%) to 15 percent (15%) for commercial organics collection services. The garbage and recyclables rates are levied on properties that are leased or owned by the County that are located in the CFA.

Staff time involved in preparing the Charges Report for CFA, administrative documents, and public advertisement of the hearing is part of the administrative cost associated with managing the garbage collection and recycling services in CFA and is financed from franchised fees.

Attachments:

- Exhibit A, Proposed Garbage and Recyclables Collection Rates in County Franchised Area
- Exhibit B, CY 2023 Unscheduled Service Fees
- Exhibit C, Draft Notice of Public Hearing with the County of San Mateo, Board of Supervisors for January 17, 2023