



CITY COUNCIL AGENDA ITEM STAFF REPORT

CITY OF SAN BRUNO

DATE: September 27, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Bobby Magee, Finance Director
Matthew Lee, Public Works Director

SUBJECT: Consideration of a (I) Resolution Approving an Amended and Restated Solid Waste Collection Services Agreement Between the City and Recology San Bruno, and Directing Staff to Initiate Proceedings to Consider Adoption of Rates in Connection With Same; And (II) Introduce, Read by Title Only and Waive Further Reading of an Ordinance of the City Council of the City of San Bruno Rescinding Ordinance No. 1901 and Amending Section 10.08.020 to Authorize Rates to Be Set by Resolution or Ordinance

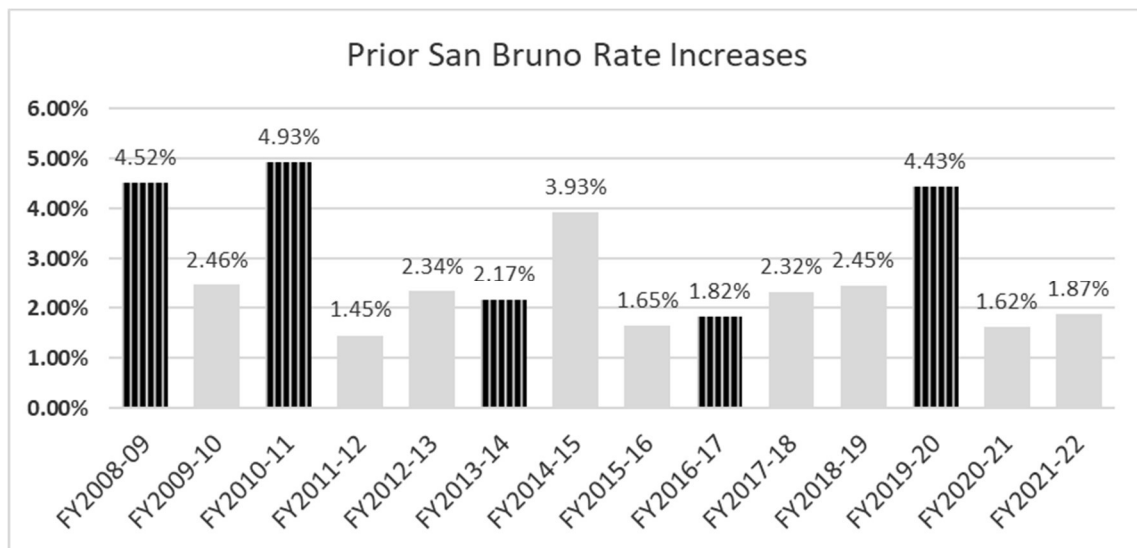
BACKGROUND:

On August 23, 2022, the San Bruno City Council (Council) conducted a public Study Session (workshop) on a potential New Solid Waste Collection Services Agreement (New Agreement). At the workshop, City of San Bruno Staff (Staff) and the City of San Bruno's (City) consultant R3 Consulting Group Inc. (R3) provided a detailed presentation (**Attachment 1**) describing the background and circumstances leading up to the potential New Agreement, why changes are necessary, the key deal points and financial impacts of the New Agreement as compared with potentially soliciting a competitive procurement for these services. At that workshop, comments and questions were received from Council which are addressed in this report.

As was discussed at the workshop, the City entered into an Integrated Waste Management Franchise Agreement (Current Agreement) with Recology San Bruno (Recology) for a term from July 1998 to June 2009 with optional renewals of up to 15 years. The Current Agreement, which has been amended multiple times and extended to June 30, 2024, entitled Recology to annual rate increases based on either detailed cost-based rate reviews or interim indexed rate reviews. As scheduled in the Current Agreement, a detailed year rate increase was due on July 1, 2022. Recology submitted their scheduled rate adjustment request in early 2021 for a 29% rate increase pursuant to the rate setting formula in the agreement. As an alternative, the City requested a proposal for a new agreement that would include enhanced services with enough time to seek competitive proposals prior to the end of the Current Agreement should negotiations fail.

As requested, Recology submitted a proposal for a new agreement with new and enhanced services and to ensure compliance with SB 1383. That New Agreement is under consideration by the City Council this evening. R3 was engaged to assist in evaluating the current rate adjustment request, company operations and negotiations of a proposed New Agreement. As requested, R3 reviewed the company's request for consistency with the methodology in the Current Agreement, mathematical accuracy and operational reasonableness and determined that the request was consistent, accurate and reasonable. Unfortunately, the methodology that worked well for 22 years (**see Figure 1 below**), was highly impacted by the current inflation spike, particularly as it relates to fuel and variable expenses where rate adjustments are based on agreed upon indices. R3 also reviewed the proposed services and their related expenses and, as appropriate, negotiated adjustments.

Figure 1 – Historical Rate Adjustments



The graph above shows the annual rate increase in each fiscal year beginning in FY2008-09 with the black bars showing the detailed rate review years and the gray bars showing the interim rate review years. Overall, the rate methodology has provided rate stability and has tracked with or below inflation. The proposed rate adjustment includes a 5.45% increase in rate revenues due to increasing Recology expenses, and significantly less than the 29% initially requested. This amount is higher than recent increases largely due to higher-than-normal inflation, the six-month delay to the rate adjustment and the new services to comply with the primarily unfunded State mandates of Senate Bill (SB) 1383.

During this review R3 considered SB 1383, which sets statewide mandates for organics recovery efforts by building on Assembly Bill (AB) 1826 to dramatically reduce disposal of organic waste by requiring all generators to be provided organic waste recycling services and cities to develop edible food recovery programs. Because only very limited State funds were provided with the legislation, cities have had to increase their solid waste rates to cover the expanded programs. San Bruno has been ahead of most cities in their compliance to date as Recology already expanded most of the organics services to meet the expectations of the law. The New Agreement includes an additional staff person to focus on SB 1383 compliance, particularly in the commercial sector. Because of the new SB1383 requirements, Recology will be required to visit all commercial

businesses to help set up new or enhanced organics programs, expand enforcement efforts and conduct on going audits and evaluations of program participation. As described in the New Agreement, the law also has greatly expanded reporting and record keeping requirements which will need to be performed. All cities in California have been required to respond similarly. Unlike many cities, San Bruno does not have a dedicated staff person to focus on these activities, leaving the responsibility exclusively to the company.

DISCUSSION:

Based on the feedback at the workshop, Staff still believes that a New Agreement with Recology is the best option for the City and provides the greatest potential for rate stability, legislative compliance, and high-quality service with no disruptions. A draft of the proposed New Agreement is included as **Attachment 2** for the Council's consideration. At the workshop, several issues were raised by Council which are addressed below.

16-gallon Carts

Recology was asked if it would consider adding a 16-gallon cart option for residential collection services, in addition to the typical standard sizes; this was to provide another option to those accounts that generate a minimum amount of garbage for disposal. Although some concerns exist, Recology has agreed to make a 16-gallon garbage cart available to up to 200 residents of single-family homes. The rate for these 16-gallon carts be \$21.81, a \$3.41 monthly savings over the current 20-gallon garbage cart. Should the 200-account subscription level be reached, Recology will re-evaluate the costs of offering this service and come back to the City for further review/discussion if necessary.

Litter and Cart Overflows

Comments were received regarding litter problems from accounts where garbage tended to spill from carts due to overages (material that does not allow the cart or bin to properly close) and carts tipping in windy conditions. Although not currently offered in their other service areas, Recology will meet this request and provide a combination of straps, clips or other latching mechanisms to their inventory and will make available to customers as requested or if the Company finds them necessary. As they are intended to prevent lids from opening due to wind, these devices will not work if the lids on the carts do not close (due to overages). Recology agrees to maintain in inventory (like other parts) up to \$10,000 worth of these devices in a capacity similar to other maintenance issues, such as broken cart wheels, are addressed. In the event a customer requires a replacement, Recology will replace them at cost to the customer.

The New Agreement also provides a detailed procedure for Recology to deal with overages that result in litter. The rates will now include an overflow fee which may be paid by a customer that notifies Recology in advance of the overflow or a charge by Recology for unanticipated overages. If a service recipient is found to repeatedly set out overages without prior arrangement, Recology may do any of the following: (i) collect such collection overflow at no additional charge as a courtesy; (ii) leave a Non-Collection Notice and decline to collect the collection overflow; (iii) Collect the collection overflow (up to two lifts) and charge the service recipient in the regular bills the overflow fee as described in the approved rate schedule (no prior arrangement); or (iv) increase the capacity or frequency of collection of the existing collection container(s) to match documented service needs; or (v) or require a locking mechanism (e.g., strap, clip, or lock) approved by Contractor to reduce spillage.

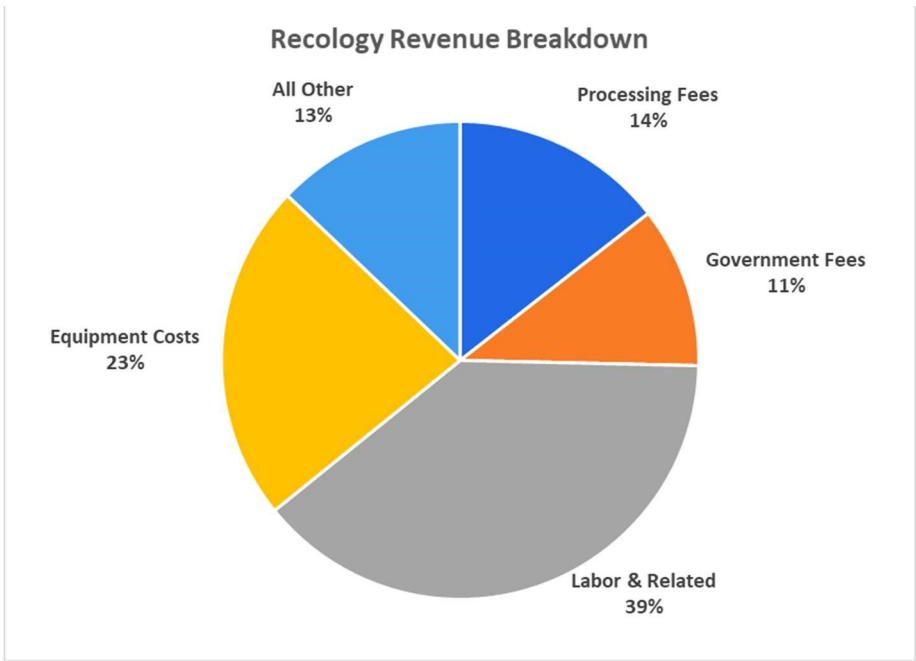
In the event of non-collection, Recology shall affix to the bin or cart a Non-Collection Notice which explains why collection was not made and includes instructions for the service recipient to cure the overflow and arrange for Recology to return to collect the garbage, organic waste, or recyclable material as applicable. Pursuant to the approved rate schedule, Recology may assess the return trip fee in the regular bills in the event a service recipient arranges for Recology to return to collect material after the service recipient has cured the overflow.

The New Agreement allows the customer to appeal any of these actions to Recology and Recology has the discretion to return the customer to its original cart size. Additionally, there are detailed provisions requiring Recology to deal with contamination in recycling and organics to support the City's diversion goals. All of these provisions are significantly enhanced compared to the Current Agreement.

Recology Costs/Revenues

In addition to the projected rate components described in the workshop presentation, questions were raised regarding the make-up of the base components of the company's revenue requirement, the basis for the 29% increase and long-term protections going forward. These percentages are similar to other franchises. The breakdown of Recology's Current revenue requirement is shown in **Figure 2** below:

Figure 2 – Recology Revenue Breakdown



In terms of the historical indexed approach and the methodology utilized going forward, the Current Agreement price increase methodology used a blend of 3 different indexes shown in **Table 1**:

- The first was the CPI for Urban Wage Earners (CPI-UC), which had a 10-year average of 3.05% with a high of 5.52% and a low of 2.15%
- The second index was a Producer Price Index for Fuel (PPI Fuel), which had a 10-year average of 1.98% with a high of 49.50% and a low of -20.84%
- The third was the Producer Price Index (PPI-Ind), which had a 10-year average of 2.17% with a high of 21.17% and a low of -6.51%.

Table 1 – Index Table

	CPI-UC	PPI Fuel	PPI-Ind
2012	3.10%	10.34%	4.86%
2013	2.31%	1.74%	-0.10%
2014	2.60%	-1.03%	0.80%
2015	2.09%	-20.84%	-3.47%
2016	3.15%	-19.86%	-6.51%
2017	3.03%	9.08%	3.29%
2018	3.08%	10.74%	4.73%
2019	4.40%	-1.90%	2.59%
2020	2.18%	7.65%	-1.63%
2021	2.15%	-15.29%	0.85%
2022	5.52%	49.50%	21.17%
Average	3.05%	1.98%	2.17%

The New Agreement methodology simplifies the process using only the first index and eliminating the two more volatile indexes. Because of the lower volatility and the use of the single index, the full CPI is believed to most likely mirror company costs and provide fair compensation. Because of the unusual volatility over the past year in both indices, this methodology resulted in the projected 29% increase. Regarding longer-term projections, the Company has agreed to adjustments in advance for January 1, 2023, July 1, 2023 and July 1, 2024 as shown later in this report. The following year (FY 2024-25) is an indexed review anticipated to mirror the CPI. After that, Recology is due for a cost-based, detailed review to evaluate the actual expenses related to the base, new and enhanced services. Because of these changes and the current inflationary volatility, it is difficult to predict expenses beyond these time periods.

School Programs

Under the Current Agreement, Recology has provided public education programs in the schools. R3 found that while Recology was in substantial compliance with the school programs anticipated in the Current Agreement, it did phase out the “cash for trash” program some years ago. Recology has stated that interest in the program declined as recycling markets decreased substantially in value making it difficult to generate income from the material. Additionally, current law around fee setting related to public benefit dollars now makes this type of program questionable in the Current Agreement. As directed at the workshop, because the school district contracts directly with Recology or another service provider, school related collection and education programs have been eliminated in the New Agreement.

Street Sweeping and Catch Basin Cleaning

As described at the Council workshop, Staff has discussed the possibility of Recology taking over Street Sweeping and Catch Basin Cleaning services in the future to potentially enhance and better coordinate these services with solid waste collections while shifting costs out of the City budget (currently running a significant shortfall in these areas due to stormwater program mandates and the lack of dedicated funding). Although not finalized, Staff believes by shifting these funds to Recology’s revenue requirement, City expenses could be reduced by as much as \$800,000 annually with no staff reductions occurring should this effort go forward. These services are currently included only as a future option as more analysis needs to be completed and discussions with the appropriate collective bargaining unit must be arranged. Staff will return to the Council in the future should these services be considered further.

Illegal Dumping and Bulky Goods

At the request of the City, Recology previously implemented a pilot program to assist the City in the collection of bulky goods such as mattresses, furniture, and other large items for scheduled collection and/or materials that were just dumped. The company implemented the pilot at no cost to the City using existing staffing and equipment. In order to formalize this program and its associated costs, to ensure quick response, service multi-family complexes and provide more capability, Recology will add a dedicated collection route to deal with all of these issues going forward. The use of current personnel is often done on overtime and as staff is available with minimal service provided to multifamily complexes. The use of overtime to maintain this level of effort is not believed to be sustainable. Further, the used vehicles are not believed to be capable over the long term so there is a need for a new vehicle to formally integrate this program into Recology's ongoing operations.

New Franchise Agreement

R3 began the New Agreement negotiation with Recology in January 2022, supported by City staff. The New Agreement is intended to ensure full compliance with current legislation, expand certain City services and provide long term rate stability. Overall, the New Agreement:

- Provides competitive rates;
- Complies with regulatory requirements, specifically SB 1383;
- Updates industry standard performance measures (performance reviews, reporting requirements, and liquidated damages for failure to comply with contract requirements);
- Protects from future rate spikes; and
- Avoids a transition and additional costs associated with a new service provider.

Key Components of the proposed New Agreement include:

- 10-year term, with two optional 5-year City-approved extensions;
- Continuation of all current services;
- Requirement for Recology to meet specified performance standards to be eligible for extensions;
- Compliance with SB 1383:
 - Organic waste collection service for all customers
 - Reporting and compliance provisions
 - Inspection and route reviews
 - Containers and labeling
 - Education and outreach;
- Collection of all recyclables including additional materials if placed out correctly;
- Allowance for additional charges and remediation for scattered materials and litter and overflows;
- Free home compost buckets on request;
- Backyard service for people with disabilities;
- Expanded free bulky item pickup on request to multi-family service recipients, twice annually;
- Collection service for City facilities;
- Dedicated route for abandoned waste like mattresses, furniture and appliances;

- At least two compost giveaways annually;
- Two dedicated Zero Waste Specialists (one new); and
- Recology will take over customer billing.

New Service Rates

The new Agreement requires the City to adopt rates that reflect the cost of providing services under the new Agreement. These rates must be effective January 1, 2023. The rates in the agreement are subject to Section 6 of Article XIII D of the California Constitution (Proposition 218). Therefore, the proposed resolution approving the new Agreement also directs staff to begin the public hearing process required by Proposition 218 for the City Council to consider adopting new rates.

In summary, Proposition 218 requires the City Council to hold a noticed public hearing on the rates. The hearing cannot occur less than 45 days after mailing a notice of the proposed rates to the record owners of property and to the customers subject to the rates. At the conclusion of the public hearing, the City must tabulate the written protests against the proposed rates and determine if a majority protest exists. A majority protest will exist if written protests have been presented, and not withdrawn, by the record owners or customers of record of a majority of the parcels subject to the rates. If a majority protest exists, the City Council cannot adopt the proposed rates.

The following schedule outlines the proposed timeline for considering the proposed rate adjustment effective January 1, 2023.

Date	Item
September 27, 2022	City Council directs staff to begin Proposition 218 process.
September 30, 2022	Staff mails notices of public hearing on proposed rates.
November 15, 2022	City Council holds public hearing, considers any protests, takes action to introduce New rate ordinance for first reading.
January 1, 2023	New FY 2022-23 rates take effect.

As part of this rate adoption process, staff is also recommending that City Council authorize rates to be set by resolution. In the current agreement with Recology, the City is required to set rates by ordinance. Also, Section 10.08.020 of the San Bruno Municipal Code requires the City Council to adopt by ordinance the charges for municipal services, which include the solid waste collection, sewer and water services. As required by the current agreement and by Section 10.08.020, the City Council adopted Ordinance No 1901 to set the current rates. So, to set the new rates by resolution, the City Council must first adopt an ordinance that amends Section 10.08.020 to allow fees to be set by resolution and that rescinds Ordinance No. 1901.

FISCAL IMPACT:

There is no immediate cost to the City, but the City will save budgeted funds (\$150,000 annually) when Recology takes over the billing process. Tonight, the City Council will be setting a Rate Hearing for the proposed rates to be effective January 1, 2023. Recology has requested the

following rates to be effective going forward based upon the agreed upon services (does not include catch basin cleaning or street sweeping):

<u>Sector</u>	<u>January 1, 2023</u>	<u>July 1, 2023</u>	<u>July 1, 2024</u>
Residential	6.03%	3.23%	7.65%
Commercial & Debris Box	16.81%	3.23%	7.65%

These rates differ slightly from those shown at the workshop due to the elimination of the originally proposed school discount. Going forward, staff will be returning to Council with recommendations prior to July 1, 2023, and July 1, 2024, to set these future rates. As shown above, Recology is due rate increases on each of those dates based on the new services and projected costs. With a 6.03% rate increase, charges for a 32-gallon residential cart (the most common size) will increase by \$1.52 per month, from \$32.53 to \$34.49. Examples of the proposed rate change for typical residential and commercial services are provided below.

Table 2: Sample Monthly Waste Service Fees

Type	Current Rate FY 2021-22	Proposed Rate 2023	Change
Residential			
20-gallon cart	\$25.22	\$26.74	\$1.52
32-gallon cart	\$32.53	\$34.49	\$1.96
64-gallon cart	\$65.06	\$68.98	\$3.92
96-gallon cart	\$97.59	\$103.47	\$5.88
Commercial			
64-gallon cart, 1 per week	\$82.65	\$96.54	\$13.89
1-yard container, 1 per week	\$173.50	\$202.67	\$29.17

A new 16-gallon cart rate of \$21.81 has been added to the proposed rate chart as well as enhanced charges for commercial organics and contaminated carts.

San Mateo County – City Rate Comparison

Solid waste collection and disposal rates vary among San Mateo County cities. Costs for service can depend upon the frequency of recycling collection, organics composting, ratio of residential and commercial customers, and unique operational constraints in some jurisdictions. **Table 3** is a list of current (adjustments may be pending) monthly rates in nearby cities for a residential 32-gallon cart compared to the January 2021 proposed rate for the City of San Bruno. The average residential 32-gallon cart for the cities listed is \$36.24. San Bruno's proposed residential cart monthly rate is \$34.49.

Table 3: City Rate Comparison

<u>City</u>	<u>32g Rate</u>	<u>Serviced By</u>
Foster City	\$ 26.21	Recology
Burlingame	\$ 28.31	Recology
San Mateo	\$ 28.93	Recology
Daly City	\$ 31.31	Allied
Hillsborough	\$ 31.90	Recology
San Bruno (Proposed)	\$ 34.49	Recology
Redwood City	\$ 34.86	Recology
South San Francisco	\$ 39.79	SSF Scavenger
Half Moon Bay	\$ 40.37	Allied
Millbrae	\$ 41.43	SSF Scavenger
Belmont	\$ 41.68	Recology
Menlo Park	\$ 42.14	Recology
Pacifica	\$ 42.57	Recology
San Carlos	\$ 43.43	Recology
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Average \$		36.24

ALTERNATIVES:

Alternative 1: (i) Adopt Resolution approving New Agreement and directing staff to initiate proceedings to consider adoption of new rates and (ii) Introduce, read by title only and waive further reading of an Ordinance of the City Council of the City Of San Bruno Rescinding Ordinance No. 1901 and Amending Section 10.08.020 to Authorize Rates to Be Set by Resolution or Ordinance.

Alternative 2: Recology San Bruno was entitled to an Interim Rate Year adjustment on July 1, 2022, per the Franchise Agreement. The City Council may direct that the originally proposed adjustment be implemented, retroactively.

Alternative 3: Do not authorize execution of the Franchise Agreement with Recology of San Bruno and direct Staff to take all necessary steps to begin a competitive procurement process for a New Franchise Agreement effective July 1, 2024.

RECOMMENDATION:

Accept Alternative 1 to: (i) Adopt Resolution approving New Agreement and directing staff to initiate proceedings to consider adoption of new rates and (ii) Introduce, read by title only and waive further reading of an Ordinance of the City Council of the City Of San Bruno Rescinding Ordinance No. 1901 and Amending Section 10.08.020 to Authorize Rates to Be Set by Resolution or Ordinance. .

DISTRIBUTION:

Recology San Bruno

ATTACHMENTS:

1. August 23, 2022, Workshop Presentation
2. Draft Franchise Agreement
3. Resolution
4. Ordinance

DATE PREPARED:

September 15, 2022

REVIEWED BY:

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