



MEMO

Date: October 2, 2018
To: Honorable Mayor and City Council
CC: Steve Kroeger, City Manager
Tim Hayes, City Attorney
From: Terrel Locke, Assistant to the City Manager
Re: **Amendments to Item No. 6**
Procurement of Solid Waste, Recycling, and Organic Material Collection Services

Attached is an amended Staff Report, Attachment D – Resolution, and Attachment F - MOU

SUMMARY OF AMENDMENTS

Staff Report - amendments to the Recommendation:

- Item B. 2) - Staff is recommending contributing Rate Stabilization and Capitalization Funds toward the one percent (1%) increase in Franchise Fees.
- Amend Item C – to read Approve a Memorandum of Understanding.

Staff Report - amendment to Alternatives:

- Language has been changed to 'use a portion the *Rate Stabilization and Capitalization* Fund to "buy down" services rates". This is in place of using Franchise Fees.

Amendment to Attachment D. Resolution amending 2011 Collection Services Agreement:

- Delete: 'Whereas, the City of Yuba City is deferring the increase of City Franchise fees for one year, in light of the 6% increase in service rates'.
- Add: 'Whereas, the City of Yuba City is Contributing Rate Stabilization and Capitalization Funds toward the one percent (1%) in Franchise Fees in light of the 6% increase in service rates'

Amendment to Attachment F. Memorandum of Understanding:

- A draft version of the MOU was incorrectly distributed. The final MOU (attached) includes #5. Effectiveness.

**CITY OF YUBA CITY
STAFF REPORT
AMENDED**

Date: October 2, 2018
To: Honorable Mayor & Members of the City Council
From: Administration
Presentation By: Steven C. Kroeger, City Manager

Summary

Subject: Procurement of Solid Waste, Recycling, and Organic Material Collection Services

Recommendation: Conduct a Public Hearing, and after consideration:

- A. Adopt a resolution approving a new Collection Services Agreement with Recology Yuba-Sutter to take effect October 1, 2019 based upon the Base Proposal received by the City Council on May 15, 2018 with the following amendments:
 - 1) Agreeing to share a recycling services coordinator with the RWMA jurisdictions
 - 2) Approving early implementation of a commercial recycling service fees as aligned with the other Yuba-Sutter Jurisdictions
- B. Amend the current 2011 Collection Agreement with Recology Yuba-Sutter (Recology) for the remaining year through September 30, 2019, by adopting a resolution:
 - 1) Approving a six percent (6%) increase in rates in lieu of the 15.63% rate increase requested by Recology
 - 2) Contributing Rate Stabilization and Capitalization Funds toward the one percent (1%) in Franchise Fees in light of the 6% increase in service rates
- C. Approve a Memorandum of Understanding (MOU) regarding remaining Closure/Post Closure Expenses through September 30, 2018 for the Recology Yuba-Sutter Landfill in Marysville

Fiscal Impact: October 1, 2018 – September 30, 2019

- Residential Service fee increase of 6%. Standard 32 gal residential service rates (the most commonly subscribed service level) would increase \$1.63 per month from \$27.29 to \$28.92.
- Commercial service fee increase of 6%. Commercial recycling services will be charged 30% of comparable garbage collection services as of April 1, 2019.

New Agreement as of October 1, 2019

- “Any Size” residential refuse service fee base rate will be \$29.25
- Commercial service at the most commonly subscribed level will decrease by 0.6%. Recycling services will be 40% of comparable garbage collection services as of October 1, 2019 and 50% of comparable garbage collection services from April 1, 2020 thereafter

Purpose:

1. Implement high quality, consistent and safe service delivery at the best value
2. Secure excellent customer service and programs
3. Ensure diversion programs meet state mandates/industry standards and best practices

Background:

The City of Yuba City commenced the Solid Waste and Recycling Franchise Services Request for Proposals (RFP) process in November of 2017.

On March 6, 2018, the City Council considered an evaluation analysis of the proposals received through the RFP process and directed the consultants to enter into negotiations with two of the participating proposers, Republic Services and Recology Yuba Sutter (Recology), to obtain best and final offers.

On May 15, 2018, the negotiations results with Republic Services and Recology were presented to the City Council. Based on Recology’s proposal as well as additional negotiated components up to that point, the Council directed the consultants to conduct final negotiations with Recology.

The Sloan Vazquez McAfee Final Negotiation Report is an integral part of this staff report and is included as Attachment A.

2011 Collection Services Agreement with Recology Yuba-Sutter:

On December 20, 2011, the City of Yuba City and Recology Yuba-Sutter entered into a Franchise Agreement for a period of eight years. October 1, 2018 to September 30, 2019 represents the final year of the agreement. As part of current negotiations, the following amendments to the final year of the 2011 Collections Services Agreement have been agreed upon:

1. Recology agrees to withdraw the rate application for the final year of the current service agreement, specifically for the period of October 1, 2018 through September 30, 2019.
2. The City agrees to grant Recology a 6% adjustment to the 2017 service rates to be effective October 1, 2018 through September 30, 2019 in lieu of the 15.63% increase originally proposed by Recology.
3. Contribute Rate Stabilization and Capitalization Funds toward the one percent (1%) in Franchise Fees in light of the 6% increase in service rates.
4. During the final year of the current service agreement, the City agrees that Recology may implement fees for commercial recycling services at the rate of 30% of the comparable solid waste service charge, effective April 1, 2019 in line with the rate adopted by other RWMA jurisdictions.
5. Recology agrees to terminate any City closure/post closure liability and costs effective September 30, 2018 (similar to their agreement with other RWMA jurisdictions).

2019 Collection Services Agreement with Recology Yuba-Sutter:

Recology has agreed to implement the company's Base Proposal as presented to the City Council on May 15, 2018 effective October 1, 2019, with the addition of the following terms and conditions, and that each of the following actions will occur simultaneously and contemporaneously:

1. In lieu of having an exclusive recycling service coordinator to serve only the citizens of Yuba City, the City agrees to share a recycling service coordinator with the RWMA jurisdictions.
2. Effective October 1, 2019, commercial recycling rates will be charged at 40%, and as of April 1, 2020 and throughout the remainder of the agreement, commercial recycling rates will be charged at 50% of the comparable solid waste collection fees. The Base Report had the rate set at 50% as of October 1, 2019.

Fiscal Impacts:

October 1, 2018 – September 30, 2019

- Residential Service fee increase of 6%. Standard 32 gal residential service rates (the most commonly subscribed service level) would increase \$1.63 per month from \$27.29 to \$28.92.
- Commercial service fees increase of 6%. Commercial recycling services will be charged 30% of comparable garbage collection services as of April 1, 2019.

New Agreement as of October 1, 2019

- "Any Size" residential refuse service fee base rate will be \$29.25.
- Commercial service at the most commonly subscribed level will decrease by 0.06%. Recycling services will be 40% of comparable garbage collection services as of October 1, 2019 and 50% of comparable garbage collection services from April 1, 2020 thereafter.

Alternatives:

1. Adopt with amendments
2. Use a portion of the Rate Stabilization and Capitalization Fund to "buy down" service rates for 32-gal residential service for the remaining year of the current contract in order to align Yuba City rates with those in the surrounding jurisdictions (i.e. from \$28.92 to \$28.00 a month). This would only be needed for the interim year before the new contract goes into effect on October 1, 2019 and would cost approximately \$170,000.

Recommendation:

- A. Adopt a resolution approving a new Collection Services Agreement with Recology Yuba-Sutter to take effect October 1, 2019 based upon the Base Proposal received by the City Council on May 15, 2018 with the following amendments:
 - 1) Agreeing to share a recycling services coordinator with the RWMA jurisdictions
 - 2) Approving early implementation of a commercial recycling service fees as aligned with the other Yuba-Sutter Jurisdictions
- B. Amend the current 2011 Collection Agreement with Recology Yuba-Sutter (Recology) for the remaining year through September 30, 2019, by adopting a resolution:
 - 1) Approving a six percent (6%) increase in rates in lieu of the 15.63% rate increase requested by Recology.

- 2) Contributing Rate Stabilization and Capitalization Funds toward the one percent (1%) in Franchise Fees in light of the 6% increase in service rates.
- C. Approve a Memorandum of Understanding (MOU) regarding remaining Closure/Post Closure Expenses through September 30, 2018 for the Recology Yuba-Sutter Landfill in Marysville

Attachments:

- A. *Sloan Vazquez McAfee Final Negotiation Report*
- B. *Comparison Chart*
- C. *Historical Rate Chart*
- D. *Resolution amending 2011 Collection Services Agreement*
- E. *FY 2018/19 Proposed Rates Effective 10/1/18 – 9/30/19*
- F. *Memorandum of Understanding*
- G. *Resolution approving 2019 Collection Services Agreement*
- H. *Draft 2019 Collection Services Agreement*

Prepared By:

/s/ Terrel Locke

Terrel Locke
Assistant to the City Manager

Submitted By:

/s/ Steven C. Kroeger

Steven C. Kroeger
City Manager

Reviewed By:

City Attorney

TH

AMENDED

ATTACHMENT D

Resolution

Amending 2011 Collection Services Agreement

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
AMENDING THE 2011 COLLECTION SERVICES AGREEMENT WITH
RECOLOGY YUBA-SUTTER**

WHEREAS, the City of Yuba City and Recology Yuba-Sutter entered into a Collection Services Agreement dated December 20, 2011 for an initial eight-year term; and,

WHEREAS, on May 15, 2018 the City of Yuba City entered into Final Negotiations for Solid Waste, Recycling, and Organic Material Collection Services Agreement with Recology Yuba-Sutter for a new Collection Services Agreement with a term beginning on October 1, 2019; and

WHEREAS, As part of final negotiations, Recology agrees to withdraw their rate application for the final year of the 2011 Collection Services Agreement, specifically for the period of October 1, 2018 through September 30, 2019; and

WHEREAS, the City of Yuba City agrees to grant Recology Yuba-Sutter a six percent (6%) rate adjustment to the 2017 service rates to be effective October 1, 2018 through September 30, 2019; and

WHEREAS, the City of Yuba City is contributing Rate Stabilization and Capitalization Funds toward the one percent (1%) in Franchise Fees in light of the 6% increase in service rates; and

WHEREAS, the City of Yuba City agrees to early implementation of the fees for commercial recycling services at the rate of thirty percent (30%) of the comparable solid waste services charge, effective April 1, 2019.

NOW, THEREFORE, the City Council of the City of Yuba City does hereby resolve as follows:

That the amendments to the 2011 Collection Services Agreement with Recology Yuba-Sutter, listed above, are hereby approved by the City of Yuba City effective October 1, 2018.

The foregoing Resolution of the City Council of the City of Yuba City was duly introduced, PASSED AND ADOPTED at a regular meeting thereof held on the 2nd day of October, 2018 by the following vote:

Ayes:

Noes:

Absent:

Attest:

Preet Dibal, Mayor

Patricia Buckland, City Clerk

AMENDED

ATTACHMENT F

**Memorandum of Understanding
Closure/Post Closure Expenses**

**MEMORANDUM OF UNDERSTANDING
REGARDING REMAINING CLOSURE/POST CLOSURE EXPENSES
THROUGH SEPTEMBER 30, 2018
FOR THE RECOLOGY YUBA-SUTTER LANDFILL IN MARYSVILLE
between
RECOLOGY YUBA-SUTTER and the CITY OF YUBA CITY**

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into between the City of Yuba City ("City") and Recology Yuba-Sutter, to specify certain monetary amounts that City agrees to remit to Recology Yuba-Sutter.

WHEREAS, City had previously entered into a Collection Service Agreement with Recology Yuba-Sutter dated December 20, 2011 ("2011 Collection Service Agreement") which will terminate on September 30, 2019; and,

WHEREAS, the prior Collection Service Agreement with Recology Yuba-Sutter effective January 1, 2012 through September 30, 2019 provided that the unfunded portion of the post closure expenses for Recology Yuba-Sutter's landfill in Marysville is an "Allowed Cost of Operations" and shall be supported by a written agreement between Recology Yuba-Sutter and the member agencies describing the method for their calculation. No such written agreement has been made, other than what was included in prior rate adjustments.

WHEREAS, the parties anticipate (i) entering into a new 10-year Collection Service Agreement in 2018 for services which will commence on October 1, 2019, (ii) amending the 2011 Collection Service Agreement to allow Recology Yuba-Sutter to charge for commercial recyclables collection services at a rate equal to thirty percent (30%) of the rate for commercial solid waste collection services, effective April 1, 2019, and (iii) that City will grant Recology Yuba-Sutter a six percent (6%) adjustment to the 2017 rates under the 2011 Collection Service Agreement, effective October 1, 2018; and

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Recology Yuba-Sutter agree as follows:

1. FUNDS OWED

The City shall remit funds as described below, but not to exceed the projected amounts shown below, to Recology Yuba-Sutter for the following expenses related to the closed Recology Yuba-Sutter Landfill in Marysville and no other related expenses:

A. City's proportionate share of the Regional Waste Management Authority (RWMA) Member Agencies' portion (92.2%) of the true-up of annual post closure maintenance expenses for the year ending September 30, 2018. The total true-up equals the actual annual post closure maintenance expenses for such year, less the \$225,528 included in the Rate Year 2018 service rates. The RWMA Member Agencies' portion of the total true-up is projected to be \$393,478.73.

B. City's proportionate share of the RWMA Member Agencies' portion (92.2%) of the total amount required to bring the post-closure maintenance trust fund and

Article 5 trust fund balances to the full amount required by state law for the remaining 15 years of the 30-year post closure maintenance period. The RWMA Member Agencies' portion of such amount is projected to be \$36,608.00.

C. City's proportionate share of the RWMA Member Agencies portion (92.2%) of the total final true-up of the costs of the landfill gas project commenced in 2009. The total final true-up amount equals the actual costs of the project, less the net balance from prior true-ups of \$280,745.00. The RWMA Member Agencies' portion of the final true-up is projected to be \$69,082.00.

D. The City shall have no other obligation with respect to any post closure expenses pursuant to the 2011 Collection Service Agreement, except for those set forth in paragraphs 1A, B and C above. Additionally, the total post-closure obligations provided for in Sections 1A, B and C represent the maximum exposure of the City for such post-closure expenses, the exact amount of which shall be determined in accordance with this Memorandum of Understanding. In addition, the City shall have no other obligations with respect to any post-closure expenses pursuant to the 2011 Collection Service Agreement with Recology Yuba-Sutter other than those obligations specified in this MOU.

2. PROCEDURE

RECOLOGY YUBA-SUTTER shall use best efforts to submit to the RWMA invoices and other documentation substantiating the above amounts by November 30, 2018 (to the extent not already submitted before the date of this MOU). With respect to item 1.B, evidence of the state law requirement may be submitted in lieu of an invoice. With respect to item 1.C, documentation of any carbon credits received shall also be provided. The RWMA shall review, on behalf of the City, the invoices and other documents submitted by Recology Yuba-Sutter, to confirm the amounts owed. The RWMA shall use best efforts to complete such review within one (1) month of Recology Yuba-Sutter's submission. The City shall pay Recology Yuba-Sutter the amounts due within six (6) months after the RWMA completes its review.

3. SOURCES AND DISTRIBUTION OF FUNDS OWED

The City anticipates that the funds owed will be provided by the Yuba City Rate Stabilization and Capitalization Fund and, if necessary, the RWMA and City. Of the total amounts owed by the RWMA Member Agencies in items 1.A. through 1.C. above, City's proportionate share shall be forty-two and two one-hundredths percent (42.02%) (which is City's share of actual collection revenues for all RWMA Member Agencies for Rate Year 2011).

4. NOTICES

The persons having authority to give and receive notices under this MOU and their addresses include the following:

Recology Yuba-Sutter
P.O. Drawer G
Marysville, CA 95901
Attn: General Manager

City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993
Attn: City Manager

5. EFFECTIVENESS

It is a condition precedent to the effectiveness of this MOU that (i) the Cities of Live Oak, Marysville and Wheatland, and the Counties of Sutter and Yuba, all execute a substantially similar MOU; (ii) City and Recology Yuba-Sutter enter into a new 10-year Collection Service Agreement for services which will commence on October 1, 2019, (iii) City and Recology Yuba-Sutter amend the 2011 Collection Service Agreement to allow Recology Yuba-Sutter to charge for commercial recyclables collection services at a rate equal to thirty percent (30%) of the rate for commercial solid waste collection services, effective April 1, 2019, and (iv) City grants Recology Yuba-Sutter a six percent (6%) adjustment to the 2017 rates under the 2011 Collection Service Agreement, effective October 1, 2018.

6. GOVERNING LAW

City and Recology Yuba-Sutter agree that for the purposes of venue, performance under this MOU is to be in Sutter County, California.

The rights and obligations of City and Recology Yuba-Sutter and all interpretation and performance of this MOU shall be governed in all respects by the laws and regulations of the State of California.

7. ENTIRE AGREEMENT

This MOU constitutes the entire agreement between City and Recology Yuba-Sutter with respect to the subject matter hereof and supersedes all previous agreement negotiations, proposals, commitments, writings, advertisements, publications and understandings of any nature whatsoever with respect to such subject matter unless expressly included in this MOU.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the date set forth beneath their respective signatures.

Recology Yuba-Sutter

Signature: _____

Print Name: _____

Title: _____

Date: _____

City of Yuba City

Signature: _____

Print Name: _____

Title: _____

Date: _____