

RESOLUTION R2019-\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, ESTABLISHING RATES FOR COLLECTION OF MUNICIPAL SOLID WASTE, RECYCLABLE MATERIALS AND COMPOSTABLES, WITH EFFECTIVE DATES ON AUGUST 1, 2019, JANUARY 1, 2020, JANUARY 1, 2021, AND JANUARY 1, 2022

WHEREAS, in December 2003, the City purchased a Materials Diversion Facility (MDF) located at 820 Levitin Way, Napa; and

WHEREAS, in December 2004, the City awarded and entered into Agreement No. 8687 with Napa Recycling & Waste Services, LLC (NRWS) to collect Municipal Solid Waste (MSW), recyclable materials and yardwaste generated within the City and to operate the MDF; and

WHEREAS, on July 24, 2012, the City Council adopted Resolution R2012-100 establishing the City's Disposal Reduction Policy and setting the goal of source-reducing, recycling, or composting not less than 75% of the solid waste generated within the City of Napa by the year 2020; and

WHEREAS, on July 24, 2012, the City Council adopted Resolution R2012-99 approving the City of Napa Sustainability Plan which includes several solid waste prevention, reduction, recycling, composting, programmatic and clean air, renewable biofuel technology action steps and goals; and

WHEREAS, on June 18, 2013, the City Council adopted Resolution R2013-55 amending the Fiscal Policy for the Solid Waste and Materials Diversion Fund by revising the minimum funding requirements for the Operating Reserve and the Rate Stabilization Reserve; and

WHEREAS, on September 20, 2016, the City Council adopted Resolution R2016-123 that approved the issuance of \$12,500,000 in revenue bonds for the Solid Waste and Materials Diversion Fund for several capital improvements at the MDF including a new covered compost system and upgraded stormwater management system as well as other necessary capital improvements at the MDF; and the Council determined that the potential environmental effects of the capital improvements were adequately examined as part of Resolution No. PC2013-15, dated November 7, 2013, wherein the City Planning Commission adopted a Mitigated Negative Declaration (MND) for the Napa Renewable Resources Project. A Notice of Determination for the MND finding was filed on February 3, 2014 (File # 12-0022, State Clearinghouse Number 2013092036); and

WHEREAS, the original term of the City's contract with NRWS (City Agreement No. 8687) was for a period of ten years, ending December 31, 2015; and

## ATTACHMENT 1

WHEREAS, on April 15, 2014, the City Council authorized the extension of City Agreement No. 8687 for a period of one year pursuant to Section 3.03 of that agreement, and directed staff to enter into negotiations with NRWS for a new long-term contract and/or contract extension; and

WHEREAS, the City exercised its right under Section 3.03 of the Agreement on April 16, 2014, to unilaterally extend the Term under the same terms and conditions for one (1) year to December 31, 2016; and

WHEREAS, the City exercised its right under Section 3.03 of the Agreement on October 18, 2016, to unilaterally extend the Term under the same terms and conditions for one (1) year to December 31, 2017; and

WHEREAS, the City exercised its right under Section 3.03 of the Agreement on November 7, 2017, to unilaterally extend the Term under the same terms and conditions for one (1) year to December 31, 2018; and

WHEREAS, on April 17, 2018, the City Council adopted Resolution R2018-043 which authorized the City Manager to execute the 2018 Contract Amendment to Agreement No. 8687 with NRWS to collect MSW, recyclable materials and compostables, and provide operation of the Napa MDF and which extended term of the City-NRWS agreement through December 31, 2031; and

WHEREAS, the City is authorized to establish fees to recover the cost of providing a service for the collection and disposal of solid waste, recycling, and compostables pursuant to the City's home rule authority as a charter city (pursuant to California Constitution, Article XI, section 5; and City of Napa Charter Section 4) and the City's police power (pursuant to California Constitution, Article XI, section 7), as implemented by Napa Municipal Code Section 5.60.220, and subject to the substantive and procedural requirements of Proposition 218 (California Constitution, Article XIII D, section 6(b)), which are addressed in this Resolution; and

WHEREAS, on March 17, 2015, the City Council approved Resolution R2015-35 establishing rates for collection of MSW, recyclable materials, yardwaste and food scraps for a period of two years, with different rates becoming effective April 1, 2015 and January 1, 2016; and

WHEREAS, the rates that became effective January 1, 2016, have been in effect since that time; and

WHEREAS, at a public meeting of the City Council on June 4, 2019, City staff presented a thorough and detailed rate study (which was prepared with the assistance of expert consultants experienced in solid waste collection and recycling) which describes the costs covered by the collection rates and the revenues expected to be generated by the proposed rates, and which includes certain recommended

## ATTACHMENT 1

adjustments in the rates charged for collection of MSW, recyclable materials and compostables from residential, multi-family and commercial customers for the remainder of calendar year 2019 and for calendar year 2020, 2021 and 2022; and

WHEREAS, the rate study presented at the June 4, 2019 City Council meeting, along with supporting notices and documents, has been made available to the public (online and in paper copy form at the City Clerk's office since June 5, 2019), and is incorporated herein by reference (hereinafter "2019 Solid Waste Rate Study"); and

WHEREAS, the recommended adjustments were intended to achieve several objectives, including:

- To generate sufficient revenue to cover (a) payments to NRWS for collection services and processing of recyclable materials, compostables at the MDF, (b) payments to NRWS for collection and delivery of MSW and non-recyclable residue to the transfer station and the costs for ultimate landfill disposal, (c) payments to NRWS for a city-wide commercial food scrap collection program and for city-wide residential organics co-collection program for food scraps collected with yard trimmings, (d) City costs directly incurred in operation of MSW and recycling programs and those of other City departments providing administration and indirect support to those programs, (e) projected debt service for the financing of the certain capital improvements at the MDF under the 2016 Solid Waste Revenue bond, (f) cost to repair damage to streets caused by refuse and recycling collection vehicles, and (g) use and replenishment of reserves at prudent levels as described in the Fiscal Policy for the Solid Waste and Materials Diversion Enterprise Fund, as included in the 2019 Rate Study and presented to the City Council with Agenda item 16A on June 4, 2019;
- To better reflect the relationship of costs of service for collection of different volumes of MSW at different frequencies;
- To encourage customer selection of more efficient patterns of waste collection services, e.g., use of larger capacity containers collected less frequently; and
- To encourage customers to maximize cost-effective recycling and composting in order to achieve the City's goal of diverting 75% of MSW from landfill disposal by 2020; and

WHEREAS, the Council considered staff recommendations at a noticed public meeting held on June 4, 2019, and directed that written notice listing the proposed adjustments to rates and the date for the July 23, 2019, public hearing be mailed to all property owners in the City and to all customers receiving service from NRWS in the City; and

## ATTACHMENT 1

WHEREAS, on June 6, 2019, the City published the written notice of the public hearing to be held on July 23, 2019, as described in this resolution (consistent with the direction from City Council on June 4, 2019, and consistent with California Constitution, Article XIID, section 6, as well as California Government Code section 53755); and

WHEREAS, on July 23, 2019, the City Council held a duly noticed public hearing on the solid waste and recycling collection service rates identified in this Resolution, and considered the agenda report and supporting documents presented by City Staff, any public comments received prior to that hearing, and all information and public comments related to this matter as presented at the hearing (specifically including any oral or written protests against the proposed solid waste and recycling collection service rates); and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including the supporting reports by City Staff, and any information provided during the public meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Napa, as follows:

1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct and establish the factual basis for the City Council's adoption of this Resolution.
2. Based on the findings and determinations documented herein:
  - A. The City Council hereby approves the rates and fees for collection of MSW, recyclable materials and compostables from residential, multi-family and commercial customers, as set forth on Exhibit "A" (attached hereto and incorporated herein by reference), which shall be effective August 1, 2019.
  - B. The City Council hereby approves the rates and fees for collection of MSW, recyclable materials, and compostables from residential, multi-family and commercial customers, as set forth on Exhibit "B" (attached hereto and incorporated herein by reference), which shall be effective January 1, 2020.
  - C. The City Council hereby approves the rates and fees for collection of MSW, recyclable materials, and compostables from residential, multi-family and commercial customers, as set forth on Exhibit "C" (attached hereto and incorporated herein by reference), which shall be effective January 1, 2021.

## ATTACHMENT 1

- D. The City Council hereby approves the rates and fees for collection of MSW, recyclable materials, compostables from residential, multi-family and commercial customers, as set forth on Exhibit "D" (attached hereto and incorporated herein by reference), which shall be effective January 1, 2022.
- E. The rates and fees approved by this Resolution (with effective dates to be implemented on August 1, 2019, January 1, 2020, January 1, 2021 and January 1, 2022) are part of the same rate increase, and therefore will be part of the same implementation of rates pursuant to California Government Code Section 53750(h)(2)(B).

3. The City Council hereby finds and determines, as described herein, that the California Environmental Quality Act ("CEQA") does not apply to the actions authorized by this resolution, pursuant to Public Resources Code section 21080(b)(8), as well as CEQA Guidelines sections 15273 and 15061.

- A. CEQA does not apply to the actions authorized by this resolution, pursuant to Public Resources Code section 21080(b)(8), since the rates and fees are adopted for the purpose of meeting operating expenses, purchasing or leasing supplies, equipment and materials, obtaining funds for capital projects necessary to maintain service within the existing service area, and meeting financial reserve needs.
- B. CEQA does not apply to the actions authorized by this resolution, pursuant to CEQA Guidelines to Section 15273, which exempts the City's establishment, modification, restructuring or approval of rates, tolls, fares and other charges for the purposes enumerated in the previous paragraph.
- C. Staff is directed to file a Notice of Determination with the County Clerk.

4. The City Council hereby finds that the rates and fees approved by this Resolution are excluded from the definition of a "tax," and the rates and fees are therefore not subject to voter approval, in accordance with California Constitution, Article XIID, section 6(c), and California Constitution, Article XIIC, sections 1(e)(7), based on the following findings: The rates and fees approved by this Resolution:

- A. are "refuse collection services" fees and rates, as further detailed in the 2019 Solid Waste Rate Study;
- B. are "property related fees" (as that phrase is used in California Constitution, Article XIIC, sections 1(e)(7));
- C. will generate revenue in an amount that is no more than necessary to cover the reasonable cost of providing the services and capital improvements described in the 2019 Solid Waste Rate Study;

## ATTACHMENT 1

- D. are allocated and charged to rate payers in a manner that is based on the rate payer's burdens on, and benefits received from, the services described in the 2019 Solid Waste Rate Study;
- E. are charges imposed for a specific governmental service provided directly to the payor that is not provided to those not charged, and which do not exceed the reasonable costs of providing the service, as analyzed in further detail in the 2019 Solid Waste Rate Study.

5. The City Council hereby finds that the fee and rate amounts identified in this Resolution meet the substantive applicable provisions as set forth in the California Constitution, Article XIID, section 6(b) as follows and analyzed in more detail in the 2019 Solid Waste Rate Study:

- A. The revenues derived from the rates do not exceed the cost of providing services for the collection and disposal of MSW, and the collection and processing of recyclable materials and compostables. The revenues derived from the rates reflect the cost of providing those services.
- B. The revenues derived from rates will not be used for any purpose other than to fund City costs directly incurred in operation of MSW and recycling programs, those of other City departments providing administration and indirect support to those programs, including street repair due to damage from refuse and recycling vehicles, as well as all costs related to collection and disposal of MSW and for collection and processing of recyclable materials and compostables.
- C. The revenues derived from rates are used for services used by, or immediately available to, the owner of the property or person responsible for the payment of the rate.
- D. The amount recovered via the rates from any person or parcel does not exceed the proportional cost of the service provided.
- E. No rate is assessed on any person or parcel unless that person or parcel is receiving collection and disposal of MSW and, if desired, collection and processing of recyclable materials and/or compostables.

6. The City Council hereby finds that the rates identified in this Resolution are not a "tax" based on California Constitution, Article XIII(C), Section 1(e)(7) as the rates are imposed in accordance with Article XIID, as described above

7. The City Council hereby directs Napa Recycling and Waste Services, LLC (NRWS) to bill customers the rates set forth on Exhibit "A" (and those other rates currently in effect for solid waste/recycling related services which are not changed by this Resolution) for collection services rendered by it on and after August 1, 2019. NRWS is directed to bill customers the rates set forth on Exhibit "B" (and those other

# ATTACHMENT 1

rates currently in effect for solid waste/recycling related services which are not changed by this Resolution) for collection services rendered by it on and after January 1, 2020. NRWS is directed to bill customers the rates set forth on Exhibit "C" (and those other rates currently in effect for solid waste/recycling related services which are not changed by this Resolution) for collection services rendered by it on and after January 1, 2021. Napa Recycling and Waste Services, LLC is directed to bill customers the rates set forth on Exhibit "D" (and those other rates currently in effect for solid waste/recycling related services which are not changed by this Resolution) for collection services rendered by it on and after January 1, 2022.

8. The City Finance Director, or his designee, is directed to incorporate the rates adopted or revised by this Resolution into the City's Master Fee Schedule that will include a comprehensive schedule of all rates, fees and charges for services related to collection of MSW, recyclable materials, and compostables.

9. This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 23<sup>rd</sup> day of July, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
Tiffany Carranza  
City Clerk

Approved as to form:

\_\_\_\_\_  
Michael W. Barrett  
City Attorney