

RESOLUTION R2022-\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, ESTABLISHING RECYCLABLE MATERIALS GATE FEES AT THE CITY'S MATERIALS DIVERSION FACILITY, TO BECOME EFFECTIVE MARCH 1, 2022

WHEREAS, the City and Napa Recycling & Waste Services, LLC ("NRWS") are parties to a contract by which NRWS provides services to the City for Collection and Transportation of Municipal Solid Waste, Recyclable Materials, and Yardwaste and operation of the Napa Materials Diversion Facility (City Agreement No. 8687, hereinafter referred to as "Contract"); and the Contract was originally approved by the City Council on December 7, 2004, and was subsequently amended on April 17, 2018 (R2018-043); and

WHEREAS, under the terms of the Contract, the City, as owner of the Napa Materials Diversion Facility ("MDF"), is responsible for determining what materials are accepted at the MDF and for establishing gate fees to be charged to third party customers for certain recyclable materials delivered to the MDF; and

WHEREAS, City staff has reviewed projected revenues and costs associated with the acceptance and processing various certain recyclable materials at the MDF; and

WHEREAS, City staff has summarized the increased costs in an "2022 MDF Recyclable Materials Gate Fee Analysis" (attached as "Attachment 2" to the staff report to City Council accompanying this resolution, and available for public review electronically and in the office of the City Clerk), and determined that revenue from the sales of recyclable materials have increased substantially while processing costs have also increased and that certain gate fees should be decreased (or converted into credits) in accordance with this Resolution to reflect the higher market value and increased processing costs; and

WHEREAS, the Utilities Director has determined that MDF recyclable materials gate fees are not subject to the California Environmental Quality Act pursuant to Public Resources Code Section 21080(b)(8), based on the findings set forth in the MDF Recyclable Materials Gate Fee Analysis; and

WHEREAS, the City is authorized to establish "recyclable materials gate fees" to recover the cost of providing services to jurisdictional and third-party contractual customers who deliver certain recyclable materials to the MDF, 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); and

WHEREAS, the City's establishment of the updated "recyclable materials gate fees," as set forth in this resolution, is in compliance with the requirements of Proposition

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26 (California Constitution Article XIII C, section 1(e)), and California Government Code Sections 66016 – 66019; and

WHEREAS, at least ten days prior to the date this Resolution is to be considered, data was made available to the public indicating the amount of cost, or estimated cost, required to provide the service for which the fees herein adopted are levied and the revenue sources anticipated to provide the service; and

WHEREAS, the City Council previously established Recyclable Materials Gate Fees effective October 1, 2020 per Resolution R2020-115; and

WHEREAS, the Recyclable Materials Gate Fee for the County of Napa has been further analyzed based on composition studies specific to Recyclable Materials delivered to the City's MDF and more recent materials sales revenue data; and

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

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. The City Council hereby finds that the recyclable materials gate fees established by this Resolution are charges imposed for a specific government service that: (i) is provided directly to those who are charged the fees, and (ii) is not provided to those not charged the fees. The City Council hereby finds that the amount of the self-haul gate fees meet the criteria set forth in the subparagraphs to this section 2, below, based on the facts identified in this Resolution, particularly including the MDF Recyclable Materials Gate Fee Analysis identified in the recitals to this Resolution.

- a. The amount of the fees do not exceed the reasonable costs of providing the service. The fees will generate revenue to offset the estimated reasonable operational and contractual costs incurred by the City in accepting materials at the MDF for processing and recycling operations. The amount of each fee is no more than necessary to cover the costs incurred by the City in conducting the activities to provide the services for which the fees are imposed.
- b. The City has allocated the service costs to each individual fee payor in a manner that bears a reasonable relationship to each payor's burdens on, and benefits received from, the City activities and services.

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c. Based on the findings set forth in this section 2, the fees established by this Resolution are not “taxes” as defined by California Constitution Article XIII C, section 1(e).

3. The City Council hereby approves and establishes and adjusts the recyclable materials gate fees for the MDF in the amounts set forth in the chart in Exhibit A to this resolution to become effective March 1, 2022.

4. The City Council hereby authorizes the City Manager and the Finance Director to implement the fees established by this Resolution, including: (a) administratively organizing and publishing the fees in the City’s Master Fee Schedule; and (b) implementing and enforcing the fees in accordance with the City Council Policy Resolution for the establishment, implementation, and enforcement of City Fees (R2018-046).

5. 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 15<sup>th</sup> day of February, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Approved as to form:

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