

RESOLUTION R2024-__

**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 MAY 1, 2024, AND JULY 1, 2024, FOR NAPA
COUNTY PER CITY AGREEMENT NO. 8782**

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 Compostables 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 18, 2023 (R2023-038); 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 as well as decreased material sales revenues in the "2024 MDF Recyclable Materials Gate Fee Analysis," which is documented in this Resolution (including Exhibits "A" and "B," attached hereto and incorporated herein by reference) as well as the staff report to City Council accompanying this resolution and Attachment 2 to that staff report, all of which are available for public review electronically and in the office of the City Clerk; and

WHEREAS, based on the 2024 MDF Recyclable Materials Gate Fee Analysis, City staff has determined that revenue from the sales of recyclable materials have decreased substantially while processing costs have also increased and that certain gate fees should be increased (or converted from credits to charges) in accordance with this Resolution to reflect the lower market value and increased processing costs of recyclable materials; 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

ATTACHMENT 1

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 authority to establish "recyclable materials gate fees" is subject to the requirements of Proposition 26 (California Constitution Article XIII C, section 1(e), and the City has documented in this Resolution compliance with those requirements, as well as compliance with California Government Code Sections 66016 - 66019; and

WHEREAS, on April 6, 2024, a legal advertisement was published in the Napa Valley Register announcing: (a) the public availability of a staff report and cost analysis documenting 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 (b) a public hearing would be conducted by the City Council on April 16, 2024, to consider the adoption of this Resolution; and

WHEREAS, the City Council previously established Recyclable Materials Gate Fees effective March 1, 2023, per Resolution R2023-016; and

WHEREAS, the City charges (or credits) the County of Napa for recyclable materials gate fees in accordance with the terms of City Agreement No. 8782 (Napa County Agreement No. 6430); 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 and/or contractual 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 2024 MDF Recyclable Materials Gate Fee Analysis identified in the recitals to this Resolution.

ATTACHMENT 1

- 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.
- 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 the recyclable materials gate fees and credits for the MDF in the amounts set forth in the column labeled "Gate Fees Effective 5-1-2024" on the chart in Exhibit "A" to this resolution; and those fees and credits shall become effective May 1, 2024. However, as an exception, for charges imposed on Napa County under City Agreement No. 8782, those fees and credits shall become effective July 1, 2024.

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 16th day of April, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTACHMENT 1

ATTEST: _____
Tiffany Carranza
City Clerk

Approved as to form:

Michael W. Barrett
City Attorney

Exhibit A

MDF Recyclable Materials Gate Fees Effective 5/1/2024 and Effective 7/1/2024 for Napa County per City Agreement No. 8782

Material	Master Fee Schedule No.	Current Gate Fees	Gate Fees Effective 5-1-2024 (Effective 7-1-2024 for Napa County)
Residential Recyclable Materials from Napa County (per City Agreement No. 8782)	7.16.15	\$55 per ton credit	\$25 per ton charge
Commercial Recyclable Materials from Napa County (per City Agreement No. 8782)	7.16.16	\$5 per ton credit	\$70 per ton charge
Source-Separated Commercial Green Glass from Napa County (per City Agreement No. 8782)	7.16.17	\$20 per ton credit	\$20 per ton credit
Source-Separated Commercial Clear Glass from Napa County (per City Agreement No. 8782)	7.16.18	\$20 per ton credit	\$20 per ton charge
Residential Single-Stream ("Mixed") Recyclable Materials	7.16.13	\$30 per ton credit	\$30 per ton charge
Commercial Single-Stream ("Mixed") Recyclable Materials *	7.16.14	\$10 per ton charge	\$75 per ton charge
Minimum Charge per load *		\$24 per vehicle (load)	\$24 per vehicle (load)

* Minimum Charge per load is applicable only to materials listed in the above chart with an "**"

Exhibit B

**Executive Summary of Analysis and Basis for Proposed
MDF Recyclable Materials Gate Fees to become Effective 5/1/2024 and Effective
7/1/2024 for Napa County per City-County MOU for Use of the City's Materials
Diversion Facility (City Agreement No. 8782)**

Material	Master Fee Schedule No.	Narrative Description of Analysis* and Basis of specific Proposed MDF Recyclable Gate Fees to become Effective 5/1/2024
Residential Recyclable Materials from Napa County (per City Agreement No. 8782)	7.16.15	Page 2 of Analysis describes an estimated average revenue of \$191.98/ton of the category of residential "single-stream" (mixed) materials of which 70% is retained as City revenue (\$134.39/ton). The City revenue is reduced by a projected \$101.37/ton in over-baseline processing costs leaving a net City revenue of \$33.01/ton. The \$33.01/ton in estimated net revenue is further reduced by \$21.89/ton for stream's portion of MDF capital costs (p. 24 of Analysis). The proposed gate fee (charge) is the approximate midpoint of the 20% market volatility buffer (p. 3 of Analysis).
Commercial Recyclable Materials from Napa County (per City Agreement No. 8782)	7.16.16	Page 2 of Analysis describes an estimated average revenue of \$101.56/ton of the category of commercial "single-stream" (mixed) materials of which 70% is retained as City revenue (\$71.09/ton). The City revenue is reduced by a projected \$101.37/ton in over-baseline processing costs leaving a net City revenue of negative \$30.28/ton. The negative \$30.28/ton in estimated revenue is further reduced by \$21.89/ton for stream's portion of MDF capital costs (p. 24 of Analysis). The proposed gate fee (charge) is the approximate midpoint of the 20% market volatility buffer (p. 3 of Analysis).
Source-Separated Commercial Green Glass from Napa County (per City Agreement No. 8782)	7.16.17	The credit recommended for this specific material type is based on a stable value of glass for CY2023 vs. CY2023 and previous methodology specific to City Agreement No. 8782 with Napa County for source-separated commercial glass delivered to City's MDF.

ATTACHMENT 1

Source-Separated Commercial Clear Glass from Napa County (per City Agreement No. 8782)	7.16.18	The credit recommended for this specific material type is based on a stable value of glass for CY2023 vs. CY2022 and previous methodology specific to City Agreement No. 8782 with Napa County for source-separated commercial glass delivered to City's MDF.
Residential Single-Stream ("Mixed") Recyclable Materials	7.16.13	Page 1 of Analysis describes an estimated average revenue of \$179.63/ton of the category of residential "single-stream" (mixed) materials of which 70% is retained as City revenue (\$125.74/ton). The City revenue is reduced by a projected \$101.37/ton in over-baseline processing costs leaving a net City revenue of \$24.37/ton. The \$24.37/ton in estimated net revenue is further reduced by \$21.89/ton for stream's portion of MDF capital costs (p. 24 of Analysis). The proposed gate fee (charge) is the approximate midpoint of the 24% market volatility buffer (p. 3 of Analysis).
Commercial Single-Stream ("Mixed") Recyclable Materials *	7.16.14	Page 1 of Analysis describes an estimated average revenue of \$109.20/ton of the category of commercial "single-stream" (mixed) materials of which 70% is retained as City revenue (\$76.44/ton). The City revenue is reduced by a projected \$101.37/ton in over-baseline processing costs leaving a net City revenue of negative \$24.94/ton. The negative \$24.94/ton in estimated revenue is further reduced by \$21.89/ton for stream's portion of MDF capital costs (p. 24 of Analysis). The proposed gate fee (charge) is the approximate midpoint of the 24% market volatility buffer (p. 3 of Analysis).
Minimum Charge per load *		Minimum charge set based on separate analysis performed for public MDF Gate Fees set by Council resolution R2024-005.

- Note: "Analysis" refers to 2024 MDF Recyclable Materials Gate Fee Analysis (which is Attachment 2 to staff report for this item on the Napa City Council agenda for April 16, 2024 meeting).