CITY COUNCIL MEETING
STAFF REPORT

Meeting Date: October 20, 2025	**Subject:** 2025 Solid Waste Rate Review and 2026 Rate Schedule **Staff Member:** Stephanie Davidson, Assistant City Attorney **Department:** Legal
Action Required	**Advisory Board/Commission Recommendation**
☐ Motion ☐ Public Hearing Date: ☐ Ordinance 1st Reading Date: ☐ Ordinance 2nd Reading Date: ☐ Resolution ☐ Information or Direction ☐ Information Only ☒ Council Direction ☐ Consent Agenda	☐ Approval ☐ Denial ☐ None Forwarded ☒ Not Applicable **Comments:** City Council work session to review the 2025 Solid Waste Collection Rate Report and provide feedback to Bell & Associates.

Staff Recommendation:
NA

Recommended Language for Motion:
NA

Project / Issue Relates To:

☐Council Goals/Priorities:	☐Adopted Master Plan(s):	☒Not Applicable

ISSUE BEFORE COUNCIL:
City Council must increase rates payable by City residents for service provided by Republic Services for solid waste collection and disposal (referred to as "*Solid Waste Collection Rates*" in this Staff Report). To determine the extent of any such rate increase, City Council must decide whether to grant Republic Services' request for an extraordinary rate increase.

EXECUTIVE SUMMARY:
The City's consultant, Bell & Associates, estimates that Republic Services will have a rate of return of 5.9% for calendar year 2025. Pursuant to the terms of the Franchise Agreement, City Council should raise Solid Waste Collection Rates – however, City Council must determine how it wants to approach this rate increase. City Council can either raise Solid Waste Collection Rates by 3.30% for all customer classes and categories; or it can accept Republic Services' extraordinary rate increase request and provide for higher or variable increases in Solid Waste Collection Rates. City staff recommends that City Council pursue the latter option (which is referred to as "*Option no. 2*," below), for the reasons outlined on pages 3-4 of this Staff Report.

Context and Background: The Franchise Agreement and the Rate Report
Republic Services and the City operate under the terms of the Solid Waste Management Ordinance (Ordinance No. 883), which was effective as of January 1, 2024 (referred to as the "*Franchise Agreement*" in this Staff Report). The Franchise Agreement was a restatement of original franchise agreement, which was enacted by Ordinance No. 814 in 2019. The Franchise Agreement addresses how and when Solid Waste Collection Rates may be raised.

The "*Rate Report*" is a report produced by Bell & Associates (CPAs) for the City pursuant to Article VIII of the Franchise Agreement, and is attached as Attachment A. The Rate Report is based on data reported by Republic Services regarding its operations <u>during calendar year 2024</u>, and projects (i.e., estimates) Republic Services' performance <u>during calendar year 2025</u>. City Council must use the Rate Report to make decisions about what, if any, changes to Solid Waste Collection Rates are warranted for <u>calendar year 2026</u>.

<u>Key Terms Defined in the Franchise Agreement</u>
The term "Operating Margin" (and thus the terms "Gross Revenues" and "Allowable Expenses") is important to understanding the Franchise Agreement's prescribed mechanism for adjusting Solid Waste Collection Rates. All three of these definitions are with respect to Republic Services's provision of solid waste collection and disposal services only within the City. Here is where each term appears in the Franchise Agreement, and a summary of the meaning of each term:

- *Operating Margin* (Article IV, Section 20 on pg. 7). In short, Gross Revenue minus Allowable Expenses.
- *Gross Revenues* (Article IV, Section 17 on pg. 6). This term refers to Republic Services's gross income, on an accrual basis, including fees for service (i.e., rates) paid to Republic Services by its customers.
- *Allowable Expenses* (Article IV, Section 2 on pp. 2-4). This term refers to expenses incurred by Republic Services in the performance that are deemed allowed to be reimbursed by Republic Services's customers. This definition includes an enumerated list of expenses that are "Allowable Expenses," and this list includes labor costs (including the cost of benefits), fuel costs, administrative and management costs, and the costs of collection (e.g., tipping fees, Metro fees, and excise taxes).

Determination of Solid Waste Collection Rates for Calendar Year 2026

Under the terms of the Franchise Agreement, City Council may proceed in one of two ways:

(1) Option no. 1: If City Council strictly applies the terms of the Franchise Agreement, Solid Waste Collection Rates should increase by 3.30%.

(2) Option no. 2: If City Council grants Republic Services' extraordinary rate increase request, City Council should answer the questions asked on page 4 of the Rate Report. Bell & Associates can then develop a proposed rate sheet for calendar year 2026.

<u>Option no. 1: Provide the Prescribed Rate Increase</u>

The Rate Report estimates Republic Services' return (for service provided within the City) of 5.9% for calendar year 2025. Article VIII of the Franchise Agreement provides that if the Operating Margin (i.e., what the Rate Report refers to as a "return") is less than 8%, then an increase of 125% of the increase in consumer price index (CPI) will be applied to Solid Waste Collection Rates. As outlined on page 3 of the Rate Report, this would result in a 3.30% increase to Solid Waste Collection Rates. This proposed rate change is shown in Attachment C of the Rate Report.

<u>Option no. 2: Grant Republic Services' Extraordinary Rate Increase Request</u>

Republic Services has submitted the extraordinary rate increase request attached to this staff report as Attachment B. If City Council grants this request, it may implement an increase in Solid Waste Collection Rates that is greater than 3.30%, and may even adopt variable rates across different customer classes and categories.

Article VIII, Section 3 of the Franchise Agreement provides as follows:

> "In the event an extraordinary or unanticipated event, including a change in law, a change in disposal site, an adjustment to the disposal rate by Metro, or a mandate from a government entity to provide a new type of Service, causes an increase greater than two percent (2%) in [Republic Services]'s annual cost for Allowable Expenses, and is projected to decrease [Republic Services]'s Operating Margin below eight percent (8%) of Gross Revenues, then [Republic Services] may submit a written request to the City Manager or designee for an Extraordinary Rate Increase. The written request must include [Republic Services]'s calculations, and supporting documentation, of the impact of the change. Any requested Extraordinary Rate Increase must be approved by Council through a resolution. [Republic Services]'s request for approval of an Extraordinary Rate Increase shall not be unreasonably withheld or delayed so long as [Republic Services]'s request meets the requirements of this Section 3. This Section is not to be construed as to require the City to accept that [Republic Services]'s calculations are correct or to allow an Extraordinary Rate Increase if the City finds that [Republic Services]'s request does not meet the requirements of this Section. The City may undertake any review of [Republic Services]'s books, records, and accounts necessary to evaluate the validity of [Republic Services]'s request for an Extraordinary Rate Increase."

Based on this language, City Council should grant Republic Services' request if the following elements are satisfied:

1. There is an extraordinary or unanticipated event that:

    a. Causes an increase greater than 2% in Republic Services' annual cost for Allowable Expenses, and

    b. Is projected to decrease Republic Services' Operating Margin below 8% of Gross Revenues.

City Council should decide if it deems the factors highlighted in Republic Services' letter to be "extraordinary or unanticipated events." It is important to note that the phrase "including a change in law, a change in disposal site, an adjustment to the disposal rate by Metro, or a mandate from a government entity to provide a new type of Service" is not an exclusive list that defines the bounds of what may be considered "an extraordinary or unanticipated event;" it is possible for City Council to consider something that is not explicitly included in this list "an extraordinary or unanticipated event" based on the phrasing in this section.

The factors highlighted in Republic Services' request appear to satisfy part 1(a), above because they are labor costs (the cost of benefits), fuel costs, administrative and management costs, and the costs of collection (e.g., tipping fees, Metro fees, and excise taxes (see parts b, c, d, and h of the definition of "Allowable Expenses" in the Franchise Agreement). The analysis provided on page 4 of the Rate Report supports a conclusion that part 1(b), above, is also satisfied.

City Staff is not currently in a position to provide a proposed rate sheet, under this scenario, for City Council to evaluate; if City Council wants to grant Republic Services' extraordinary rate increase request, City Staff and Bell & Associates request that City Council answer the questions posed on page 4 of the Rate Report so that City Staff can present a rate sheet for City Council to consider.

<u>City Staff's Recommendation</u>
The Franchise Agreement explicitly provides that the City's goal is to provide Republic Services with an Operating Margin of 10%, and within a range of 8% to 12%. Option no. 1 (increasing Solid Waste Collection Rates by a flat, across-the-board 3.30%) is insufficient to meet this goal. According to the Rate Report, this approach is "highly unlikely" to increase Republic Services's Operating Margin to above 8% for calendar year 2026. This is outlined on page 4 of the Rate Report. City Staff recommends that City Council elect to use Option no. 2 (grant the extraordinary rate increase request, provide direction, and allow City Staff and Bell & Associates to develop a proposed rate sheet based on that direction).

The Franchise Agreement's Prescribed Rate Review Process Should be Evaluated in the Future
One goal that City staff had when the original Franchise Agreement was drafted was to ensure that City residents did not have to bear inconsistent and large increases in Solid Waste Collection Rates (e.g., no increases some years, and large increases other years). Rather, the intent was to

provide for relatively steady and manageable increases in these rates. However, the rate review process has encountered inconsistencies since its implementation. For example, during the 2020 rate review, no rate increase was provided, even though the calculation pursuant to the Franchise Agreement would warrant an increase. During the 2021 process, rates were decreased due to an Operating Margin exceeding 12%, but then no increase was provided during the 2022 process, when the Operating Margin warranted a rate increase under the Franchise Agreement. In 2023, Council approved an extraordinary rate increase with variable increases applied across different classes. In 2024, Council approved rate increases with certain variable rates to incentivize less waste creation. In summary, the standard rate increase calculation has never been utilized in the manner written in the Franchise Agreement. Therefore, there has been a lack of symmetry between changes in Republic Services' Operating Margin and the CPI. City staff recommends that the City re-examines the prescribed mechanism for changes to Solid Waste Collection Rates.

The City has now conducted six rate reviews since the City's adoption of the original Franchise Agreement in 2019:

Year	Resolution No.	Summary of Result
2019	2775	No change to rates. In addition, 50% reduction of a temporary recycling surcharge and introduction of new recycling services.
2020	2865	No change to rates.
2021	2931	Rates were reduced for all customer classes (residential rates decreased an average of 4.7%, commercial rates decreased an average of 7.6%, and industrial rates decreased an average of 10.1%). In addition, temporary recycling surcharge was eliminated.
2022	3004	No change to rates.
2023	2091; 3124	Extraordinary rate increase approved. Residential rates increased an average of 9.2% (8.8% to 9.5%, depending on size of the cart), commercial rates increased an average of 7.5% (6.7% to 8.0%, depending on size of the container), and industrial rates increased an average of 5.0%). Subsequently, City Council adoption of Resolution No. 3124 corrected a scrivener's error.
2024	3162	Rates increased for all customer classes. In order to incentivize the creation of less waste, rates for customers with smaller carts did not increase, and rates for larger carts saw larger increases than what would have been a flat 2.6% across-the-board increase.

This history illustrates that the Franchise Agreement is not operating as it was intended to.

EXPECTED RESULTS:
Adoption of a new rate schedule will modify Solid Waste Collection Rates effective January 1, 2026.

TIMELINE:
- October 20, 2025: City Council reviews current draft of the Rate Report.

<u>If City Council proceeds using Option no. 1:</u>
- November 17, 2025: City Council adopts Resolution No. 3162, which would include the rate schedule included as Attachment C of the Rate Report (this would result in the adoption of a flat, across-the-board 3.30% rate increase). This rate increase would be effective as of January 1, 2026.

<u>If City Council proceeds using Option no. 2:</u>
- November 17, 2025: City Council holds one additional work session to review proposed rate schedules, which would be prepared by Bell & Associates using the feedback and direction provided by City Council today.
- December 1, 2025: City Council adopts Resolution No. 3162, which would include the rate schedule selected by City Council. This rate increase would be effective as of January 1, 2026.

CURRENT YEAR BUDGET IMPACTS:
The Rate Report projects the City's Franchise Fee revenue to be $441,097 for calendar year 2025. Raising Solid Waste Collection Rates for calendar year 2026 will have the effect of increasing the Franchise Fees paid to the City during that year.

COMMUNITY INVOLVEMENT PROCESS:
The community has not been involved in this rate review process. This work session is the first time during 2025 that solid waste rates have been considered by City Council.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:
An increase in Solid Waste Collection Rates is necessary under the terms of the Franchise Agreement, but it may cause financial strain for some residents.

ALTERNATIVES:
The alternatives are the two options that have been presented.

CITY MANAGER COMMENT:
N/A

ATTACHMENTS:
Attachment A: 2025 Solid Waste Collection Rate Report, October 2025
Attachment B: Extraordinary Rate Increase Request, received by City staff on September 29, 2025