



**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: December 18, 2023		Subject: Resolution No. 3091 A Resolution of the City of Wilsonville Adopting the Findings and Recommendations of the <i>Solid Waste Collection Rate Report, October 2023</i> , and Modifying the Republic Services Rate Schedule for Collection and Disposal of Solid Waste, Recyclables, Organic Materials and Other Materials, Effective February 1, 2024. Staff Member: Stephanie Davidson, Assistant City Attorney; Mark Ottenad, Public/Government Affairs Director Department: Legal; Administration	
Action Required		Advisory Board/Commission Recommendation	
<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments: Adoption of Resolution No. 3091 will increase the City’s solid waste collection and disposal rates, effective Feb. 1, 2024.	
Staff Recommendation: City Council adopts Resolution No. 3091.			
Recommended Language for Motion: I move to adopt Resolution No. 3091.			
Project / Issue Relates To:			
<input type="checkbox"/> Council Goals/Priorities:	<input checked="" type="checkbox"/> Adopted Master Plan(s): Solid-Waste Franchise Ordinance No. 814 (succeeded by Ordinance No 883, effective Jan. 1, 2024)	<input type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL:

Should City Council adopt the *Solid Waste Collection Rate Report, October 2023*, (“Rate Report”), which is attached as Exhibit A to Resolution No. 3091, and increase the City’s solid waste collection and disposal rates in accordance with the *Republic Services Rate Schedule for Collection and Disposal of Solid Waste, Recyclables, Organic Materials and Other Materials, Effective February 1, 2024* (“Proposed 2024 Rate Sheet”), which is attached as Exhibit B to Resolution No. 3091?

EXECUTIVE SUMMARY

Ordinance No. 814 includes the City’s Franchise Agreement with Republic Services, and governs Republic Services’ provision of solid waste collection and disposal service to City residents. Ordinance No. 814 provides that the City’s goal is to provide franchisee Republic Services an operating margin or rate of return (“ROR”) (*i.e.*, profit) of 10% of allowable expenses; rates are recalibrated by the City if the ROR falls below 8% or above 12%.

Relying on the Rate Report, which was produced for the City by Chris Bell, CPA, City staff have determined the following facts (all with respect to Republic Services’ activities under its exclusive franchise with the City):

- Republic Services’ composite ROR for 2022 was 10.8% (“Composite” means the combined ROR of Republic Services’ three lines of business: residential (roll cart), commercial (container), and industrial (drop box)); and,
- Republic Services’ projected composite ROR for 2023 is 5.73% (0.74% for residential, 6.84% for commercial, and 7.95% for industrial).

Republic Services has submitted a written request for an Extraordinary Rate Increase to the City (the initial letter was dated November 21, 2023, and a revised copy including improved citations is dated December 7, 2023). The term “Extraordinary Rate Increase” is a term defined in the Franchise Agreement (Ordinance No. 814), and is explained in greater detail below. This letter outlines the reasons Republic Services believes an Extraordinary Rate Increase is justified.

City staff recommend granting Republic Services an Extraordinary Rate Increase in accordance with the Proposed 2024 Rate Sheet for the reasons outlined below.

Republic Services’ Projected “Operating Margin” (*i.e.*, Composite ROR) is Too Low

City staff recommend that City Council increase Republic Services’ rates because franchisee’s projected composite ROR for 2023 is well below 8%. See Article VIII, Section 4 of Ordinance No. 814 (“It is the goal of this Franchise to provide Franchisee with a target Operating Margin of [10%] of Gross Revenues, but no less than [8%]”). The Rate Report states that Republic Services’ projected composite ROR for 2023 is 5.73%. See page 2, Table 3 (titled “Projected 2023 Financial Performance for Wilsonville) of the Rate Report.

The following factors are notable and help explain the impact that increased costs are having on Republic Services’ ROR (these are findings of the Rate Report):

- The rate of inflation for 2023 is 3.37% for general expenses.
- Allowable expenses are increasing by 6.8%. See page 3, Table 3 (titled “Projected 2023 Financial Performance for Wilsonville”) of the Rate Report.
- There are a number of expense categories that are increasing at rates higher than the rate of inflation, 3.37% for 2023:
 - Union Driver Wages - 6.90%;
 - Recycling Processing - 27.1%;
 - Waste Disposal - 8.92%; and,
 - Health Insurance - 6.90%.

See the following portions of the Rate Report: (1) page 2, section titled “Projected Results for 2023 and 2024”, (2) page 2, table 2, titled “Line Item Inflation Assumptions for 2023,” and (3) page 3, section titled “Projected 2023 Expenses,” and (4) page 3, table 3, titled “Projected 2023 Financial Performance for Wilsonville.”

Franchise Agreement: “Extraordinary Rate Increase” Requirements

The following section (Article VIII, Section 5 of Ordinance No. 814, titled “Extraordinary Rate Increase”) governs Extraordinary Rate Increases:

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 Franchisee’s annual cost for Allowable Expenses, and is projected to decrease Franchisee’s Operating Margin below eight percent (8%) of Gross Revenues, then Franchisee may submit a written request to the City Manager or designee for an Extraordinary Rate Increase. The written request must include Franchisee’s calculations, and supporting documentation, of the impact of the change. Any requested Extraordinary Rate Increase must be approved by City Council through a resolution. Franchisee’s request for approval of an Extraordinary Rate Increase shall not be unreasonably withheld or delayed so long as Franchisee’s request meets the requirements of this Section 5. This Section is not to be construed as to require the City to accept that Franchisee’s calculations are correct or to allow an Extraordinary Rate Increase if the City finds that Franchisee’s request does not meet the requirements of this Section. The City may undertake any review of Franchisee’s books, records, and accounts necessary to evaluate the validity of Franchisee’s request for an Extraordinary Rate Increase.

A rate increase granted under this section requires that there is an “extraordinary or unanticipated event” that justifies the request. 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” provides examples of “extraordinary or unanticipated event[s].” City staff do not interpret this list to be exclusive (i.e., facts other than those listed in this phrase could be deemed “extraordinary or unanticipated event[s]”).

Factors Supporting an Extraordinary Rate Increase

City staff believe that City Council would be justified in finding that there are “extraordinary or unanticipated event[s]” that justify the proposed extraordinary rate increases based on the Rate Report and the reasons cited in Republic Services’ letter dated December 7, 2023.

Proposed Rate Adjustments

City staff recommend increasing the City’s solid waste collection and disposal rates, effective February 1, 2024, in accordance with the Proposed 2024 Rate Sheet.

According to the Rate Report, an average rate increase of 5% - and even larger rates increases for certain services – is required to meet the City’s stated goal of providing Republic Services with a ROR of 10%. See Article VIII, Section 4 of Ordinance No. 814. Here is a high-level summary of the rate increases that will result from City Council’s adoption the Proposed 2024 Rate Sheet, by customer type:

- **Residential service:** Rate increase averages 9.2% (range is 8.8% to 9.5%, depending on size of the cart).
- **Commercial service:** Rate increase averages 7.5% (range is 6.7% to 8.0%, depending on size of the container).
- **Industrial service:** Rate increase averages 5.0%.

The increase in rates that result from City Council’s adoption the Proposed 2024 Rate Sheet are listed by customer and service type in these sources:

- Pages 3-5 of the Rate Report, including:
 - Table 5, titled “Proposed Rate Increase for Residential Collection Service”
 - Table 6, titled “Proposed Rate Increases for Commercial Container Service.”
 - Table 7, titled “Proposed Rate Increase for Drop Box / Roll Off Compactor”
 - Table 8, titled “Calculation of the Revenue Requirement”
- Attachment 4, titled “2024 Solid Waste Collection & Disposal Rate Sheet Calculations”

The increase in rates that result from City Council’s adoption the Proposed 2024 Rate Sheet varies by type of customer class, size of container and related costs of collection, processing, and disposal. There are a few reasons these proposed rate increases are not uniform:

- In the past, City Council has stated that it wants to reward customers who generate less garbage by keeping rates payable for the smallest cart and containers as low as possible.
- Larger size garbage containers hold more solid waste for disposal; *i.e.*, disposed waste for larger garbage containers is a greater percentage of a residential customer’s package, which includes containers for mixed recycling, organics and glass/batteries.
- With respect to only industrial customers, the actual rate payable by the customer includes a drop box distance fee of \$4.70/mile. If Republic Services must travel more than 18 miles (roundtrip) from its location to the customer’s location, or the collected waste material requires disposal at distant locations, such as Coffin Butte Landfill (Corvallis) or the Hillsboro Landfill, the customer must pay a higher fee.

Information on “Metro” Fees

City Councilor Akervall has asked follow-up questions seeking clarification on the “Metro fees” that are cited in “Metro” fees illustrated on page 5 to Attachment 2 (slide titled “Solid Waste Disposal Expense” in the presentation titled “Additional Information on the Cost of Solid Waste and Recycling Collection”).

Two items listed under the table column Tip Fee Cost are actual Metro fees: both the Disposal Cost and Metro Fees are two different sets of fees that Metro imposes and collects; Metro also collects the DEQ / Host Fee. Any customer bringing a ton of garbage to Metro pays \$137.30 per ton in 2023.

Attachment 3 (titled “Disposal and Processing Fees at Metro Transfer Stations, Effective July 1, 2023”), illustrates the various fee components that total \$137.30/ton fee, composed of transaction fee and tip fee. The Metro tip fee or disposal cost components include:

Tonnage Fee (Disposal Cost)	\$ 89.72/ton
Other Fees and Taxes	
Regional System Fee	\$ 31.41/ton
Metro Excise Tax	\$ 13.28/ton
DEQ Fees	\$ 1.89/ton
[Community] Enhancement Fee	\$ 1.00/ton
Total Disposal/Tip fee	\$137.30/ton

In addition to this tonnage fee, Metro assesses a transaction fee of \$6.75 per transaction.

Page 5 of Attachment 2 (slide titled “Solid Waste Disposal Expense” in the presentation titled “Additional Information on the Cost of Solid Waste and Recycling Collection”) illustrates that Metro-only fees composed of Disposal Cost and Metro Fees increased by 11.5%, from \$120.56 in 2022 to \$134.41 in 2023. Here is the math (data is from the slide cited above):

	2022	2023
Disposal Cost	\$78.39	\$89.72
Metro Fees	\$42.17	\$44.69
Total	\$120.56	\$134.41

History of Recent Years' Prior Results of Solid Waste Collection Rate Reviews

Since adoption of Ordinance No. 814 in 2019, the City has conducted four rate reviews (in 2019, 2020, 2021 and 2022). If City Council adopts the Proposed 2024 Rate Sheet, solid waste collection and disposal rates payable by City residents will increase for the first time since 2018 (a five-year period).

Here is a summary of the results of these four recent rate review processes:

Year	Projected ROR for next year	Actual ROR for prior year	Result of Rate Review Process
2019 Resolution No. 2775	18.4%	N/A	<ul style="list-style-type: none"> 50% reduction of a temporary recycling surcharge (a \$1.25/month reduction from \$2.50/month to a net charge of \$1.25/month). No change to solid waste collection and disposal rates, except as noted above (<i>i.e.</i>, 2018 rates remained in effect).
2020 Resolution No. 2865	11.3%	16.1%	<ul style="list-style-type: none"> No change to solid waste collection and disposal rates (<i>i.e.</i>, 2018 rates remained in effect).
2021 Resolution No. 2931	18.4%	16.2%	<ul style="list-style-type: none"> Elimination of the temporary recycling surcharge (a \$1.25/month reduction). Rates were reduced for all classes of customers, less than 2018 rates (<i>e.g.</i>, residential service rates decreased an average of 4.7%, commercial service rates decreased an average of 7.6%, and industrial service rates decreased an average of 10.1%).
2022 Resolution No. 3004	9.8%	15.8%	<ul style="list-style-type: none"> No change to solid waste collection and disposal rates (<i>i.e.</i>, 2021 rates, which were lower than 2018 rates, remained in effect).

A summary of Wilsonville’s Rate Changes 2018 to 2023 for three typical classes of customers (residential 35 gallon cart, commercial 3 yard weekly service, and industrial 20 yard drop box) is also provided on page 9 of Attachment 2 (slide titled “Wilsonville’s Rate Changes 2018 to 2023” in the presentation titled “Additional Information on the Cost of Solid Waste and Recycling Collection”).

EXPECTED RESULTS:

City Council’s prospective adoption of Resolution No. 3091 will increase solid waste collection and disposal rates for all classes of customers, effective February 1, 2024.

TIMELINE:

- December 18, 2023: City Council’s prospective adoption of Resolution No. 3091, which adopts the Rate Report and Proposed 2024 Rate Sheet.
- February 1, 2024: New solid waste collection and disposal rates become effective.

CURRENT YEAR BUDGET IMPACTS:

The Rate Report projects City solid waste franchise fee revenue (5% of revenue) for calendar year 2023 of \$418,166. See page 9 of the Rate Report.

COMMUNITY INVOLVEMENT PROCESS:

The City’s rate review process involved an examination of Republic Services’ books, records, and accounts, and other requested input and clarification from Republic Services representatives.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

The community benefits by continuing to receive Republic Services’ solid waste collection and disposal services. If solid waste collection and disposal rates are increased, the City will financially benefit because funds that it receives from Republic Services in payment of the 5% franchise fee will also increase by a corresponding amount.

ALTERNATIVES:

N/A

CITY MANAGER COMMENT:

N/A

ATTACHMENTS:

1. Republic Services letter seeking a Request for Extraordinary Rate Increase, December 7, 2023
2. Additional Information on the Cost of Solid Waste and Recycling Collection, December 4, 2023
3. Disposal and Processing Fees at Metro Transfer Stations, Effective July 1, 2023
4. 2024 Solid Waste Collection & Disposal Rate Sheet Calculations
5. Resolution No. 3091, A Resolution of the City of Wilsonville Adopting the Findings and Recommendations of the “Solid Waste Collection Rate Report, October 2023” and

Modifying the Republic Services Rate Schedule for Collection and Disposal of Solid Waste, Recyclables, Yard Debris, Organic Materials and Other Materials, Effective February 1, 2024

Exhibit A: Solid Waste Collection Rate Report, October 2023

Exhibit B: Republic Services Rate Schedule for Collection and Disposal of Solid Waste, Recyclables, Organics and Other Materials, Effective February 1, 2024