

MEMORANDUM

Public Works Department



DATE: December 5, 2023

TO: Mayor and Council

THROUGH: Ned Thomas, City Manager *Ned Thomas*

FROM: Christian Di Renzo, Public Works Director
Elaine Marshall, Deputy Public Works Director

SUBJECT: Solid Waste Rate Adjustment Effective January 1, 2024

The purpose of this memorandum is to provide information regarding the 2024 Index Based Rate adjustment for solid waste services, under the City's Franchise Agreement for collection and hauling of solid waste materials. Per the prescribed Index Based calculation procedures of the agreement, solid waste service rates are scheduled to be increased by 4.98% beginning January 1, 2024.

BACKGROUND

The Franchise Agreement (for solid waste and recyclables collections services) between the City and Milpitas Sanitation, Inc. (MSI) for the collection and hauling of solid waste materials, including organic and recycling materials, started on December 1, 2017. The 15-year agreement outlines the process and schedule for annual rate adjustments of the solid waste service rates.

Rate adjustments are based on two types of calculations - Index Based or Cost Based as described in Exhibit D-1 and D-2, of the Agreement. The agreement also specifies which years are Index Based or Cost Based adjustment years. Calendar year 2024 is the seventh rate period of the agreement and is an Index Based rate adjustment year.

An Index-Based adjustment involves applying the percentage change in the consumer price index and a fuel index to calculate adjusted Maximum Rates allowed. A detailed description of the calculation procedures is described in Exhibit D-1 of the agreement. In accordance with the agreement, MSI is required to submit an application for an Index Based adjustment by October 1 and, after review by the City, Index-Based rate adjustments may be approved by the City's Contract Manager.

The City also has a Franchise Agreement (disposal services) with Waste Management, Inc. (WMI) for solid waste disposal services that are hauled by MSI trucks to the Kirby Landfill. WMI provides MSI with an invoice based on current per-ton rates and total tons delivered to the landfill from the City by MSI. This agreement for disposal services also started on December 1, 2017 and outlines an annual prescribed schedule for rate adjustments as presented in Article 8 of the Agreement. Under the WMI agreement, City staff are to review requested Index Based rate adjustments submitted by WMI on an annual basis.

The 2024 Rate adjustment application from MSI was submitted to staff by the October 1, 2023 deadline for review and consideration. Rate adjustment information from WMI was received in November 2023. Staff reviewed the rate adjustment submittals with assistance from the City's rate review consultant, R3 Consulting Group Inc.

ANALYSIS

MSI's rate adjustment application requested an initial increase of 5.28%. R3 confirmed that MSI used the correct Rate Year 6 cost data to project the costs for Rate Year 7. MSI used the correct indices as required by Exhibit D-1, and correctly calculated the percentages for the rate of increase associated with those indices. R3 reviewed the tonnage back-data as provided by MSI and corrected the data to match the contract specified timeframe and corrected the pass-through cost for recyclable materials as specified in Exhibit D-1.

WMI provided an updated rate adjustment for 2024 that had a lower disposal rate than that calculated by MSI using the CPI. This reduced the all-in disposal rate being used in the Rate Application from \$92.89 per ton to \$90.51 per ton. The result of all these adjustments in sum is a decrease in the rate adjustment for Rate Year 7 from the 5.28% originally submitted by MSI (which would have been capped at 5% per Exhibit D-1, Item 1) to 4.98%.

The estimated rate impact for the most commonly subscribed single-family service is shown in the table below. The billed rate covers all solid waste program costs including both the services provided by MSI and WMI as all billing and payment collection goes through MSI.

	Service Subscription Level	Quarterly Billed Rate*	Monthly Rate
Current	45-gal garbage/19-gal food scraps	\$ 139.84	\$ 46.62
Effective January 1, 2024	45-gal garbage/19-gal food scraps	\$ 146.80	\$ 48.94
Difference	4.90%	\$ 6.96	\$ 2.32

**billing for solid waste services is administered by MSI and all residential customers are billed on a quarterly basis.*

NEXT STEPS

MSI administers billing for all solid waste services in Milpitas. Residential customers are billed quarterly. Commercial and multi-family accounts are billed monthly. In accordance with the Franchise Agreement, the rate adjustment for calendar year 2024 will be 4.98% effective January 1, 2024. MSI will notify all customers about the rate increase in December.

Attachment: R3 Memo Regarding Review of Milpitas Sanitation, Inc.'s RY 7 Rate Adjustment Application

To: Elaine Marshall, Deputy Public Works Director
Myvan Khuu-Seeman, Sr. Administrative Analyst

From: Rose Radford, Senior Managing Consultant
Maryann Hulsman, Consultant

Date: December 1, 2023

Subject: Review of Milpitas Sanitation, Inc.'s RY 7 Rate Adjustment Application

Attachment Review - MSI Rate Application RY 7

R3 Consulting Group, Inc. (R3) is pleased to submit this report detailing the results of our review of Milpitas Sanitation, Inc.'s (MSI's) 2024 Rate Application for the City of Milpitas (City). MSI's application was submitted according to Exhibit D-1 of the agreement between the City of Milpitas and Milpitas Sanitation, Inc., for Collection of Solid Waste and Collection and Processing of Source-Separated Recyclable Materials and Organic Materials (Agreement). This rate-setting process is for Rate Year (RY) 7.

Background

The City's Agreement with MSI specifies that the rates for RY 7, commencing on January 1, 2024, are to be set based on the Indexed Rate Adjustment Methodology described in Exhibit D-1 of the Agreement. R3 was engaged by the City to conduct a review of the application, which included a thorough assessment of relevant documents for completeness and compliance with the procedures agreed upon by MSI and the City in the Agreement, and verification of the mathematical accuracy and logical consistency of the supporting documents.

RY 7 Rate Application

MSI submitted a rate adjustment application for a 5.28% rate increase to its solid waste rates, to be effective January 1, 2024. In projecting 2024 costs, MSI included the direct costs for the City's garbage, organics, and recycling collection; direct costs for transfer, processing, and disposal of garbage, organics, and recycling; as well as the direct costs for labor- and vehicle-related costs.

Scope of Review

The City engaged R3 to perform a review of the application in accordance with Exhibit D-1 of the Agreement. These procedures included the following activities:

- » Determining if MSI's Rate Application is mathematically accurate and logically consistent;
- » Verifying that the RY 6 Costs presented in MSI's RY 7 Rate Application are based on the values adjusted during the detailed rate review conducted by R3 during the RY 4 Rate Adjustment Review;
- » Determining if the RY 7 Costs reported in MSI's RY 7 Rate Application comply with the established protocol in Exhibit D-1, including established limits on certain expenses;
- » Determining if MSI used the correct indices to project RY 7 Costs;
- » Determining if MSI used the correct method to calculate its profit and allowed return on investment;
- » Incorporating updated disposal cost information based on figures submitted by Waste Management during the course of this review;
- » Determining if MSI used the correct method to calculate City fees;
- » Identifying appropriate adjustments to MSI's RY 7 Rate Application;

- » Recalculating the required rate increase based on the above; and
- » Preparing this report that documents findings and recommendations.

Limitations

- » Our conclusions are based in part on the review of MSI's projections of its financial results of operations. Actual results of operations will usually differ from projections because events and circumstances frequently do not occur as expected, and the difference may be significant.
- » Findings below are based upon the procedures listed above in the Scope of Review. Procedures are intended to meet the City's objectives at a minimum cost. They do not constitute an audit in accordance with auditing standards generally accepted in the United States of America. Furthermore, had additional procedures been performed, other matters might have come to our attention that would have been reported to you, and those matters may have been material.
- » This report is intended solely for the use of the City of Milpitas and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

Findings

Adjustments

R3 adjusted the RY 6 Costs provided by MSI using the methodology outlined in Exhibit D-1, Item 2, Adjustment of Total Calculated Costs. To project the costs for RY 7, R3 applied the same indices as MSI, with one exception: R3 corrected the Series ID for the Employment Cost Index (ECI) to CIU201S000300000I, which changed the labor-related Consumer Price Index (CPI) used in the calculations from 5% to 6.46%.

R3 adjusted the total tonnages provided by MSI to match the July-through-June timeframe specified in the Definitions section of Exhibit D, and R3 also corrected the pass-through cost for recyclable materials from \$48.57 to -\$15.00 per ton, as specified in Exhibit D-1, Item 2.A.4.

Waste Management provided an updated rate adjustment for 2024 that had a lower disposal rate than that calculated by MSI using the CPI. This reduced the all-in disposal rate being used in the Rate Application from \$92.89 per ton to \$90.51 per ton.

The result of all these adjustments in sum is a decrease in the rate adjustment for RY 7 from 5.28% (which would have been capped at 5% per Exhibit D-1, Item 1) to 4.98%.

Next Steps

The City is required to approve a rate increase by December 1 of each year. R3 recommends that the City approve a 4.98% rate increase for 2024.

MSI has been sending food waste to the GreenWaste Recovery Transfer Station, which is not an approved facility per the franchise agreement; R3 recommends that City staff follow up with MSI to discuss the flow of food waste, given that the depackager at the Mission Trails Waste System (MTWS) transfer station is currently non-operational.