


**CITY AND COUNTY OF SAN FRANCISCO**  
**BOARD OF SUPERVISORS**  
**BUDGET AND LEGISLATIVE ANALYST**

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November 20, 2014

**TO:** Government Audit and Oversight Committee

**FROM:** Budget and Legislative Analyst 

**SUBJECT:** November 24, 2014 Special Government Audit and Oversight Committee Meeting

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<b>Item: 2</b> <b>File: 14-1161</b>	<b>Department:</b> Office of Contract Administration (OCA)
<b>EXECUTIVE SUMMARY</b>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• Resolution approving an agreement between the City and County of San Francisco and Recology San Francisco, Recology Golden Gate and Recology Sunset Scavenger (Recology) for refuse services, under Charter Section 9.118(b) resulting in total compensation to Recology in an amount not-to-exceed \$44,000,000 for the term of December 1, 2014 through November 30, 2020.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• The proposed contract, as well as the previous contracts, would be awarded to Recology, without conducting a competitive procurement process.</li> <li>• On March 21, 2007, the Board of Supervisors approved a four-year, with two annual options to extend, not-to-exceed \$23,037,527 Memorandum of Understanding (MOU) between the City and Recology for refuse collection and recycling services for all City and County departments and facilities (Resolution No. 147-07). This MOU was amended four times to increase the contract by a total of \$10,082,735 to a not-to-exceed \$33,120,262, and to exercise both one-year options to extend the term through June 30, 2013.</li> <li>• OCA entered into a new MOU with Recology for a one-year term from July 1, 2013 through June 30, 2014 for a not-to-exceed \$7,700,000. This new MOU was amended three times to (a) expand City refuse and recycling services to the Treasure Island Development Authority (TIDA), (b) extend the term by five months, or through November 30, 2014, and (c) increase the contract by \$1,000,000, for a total not-to-exceed \$8,700,000. This new MOU and none of the three amendments were subject to the Board of Supervisors approval as the contract was less than ten years or \$10,000,000.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• In FY 2013-14, the City paid Recology \$5,752,006. In FY 2015-16, after the initial rate increases, the City anticipates expending \$6,005,961, an increase of \$253,955 or 4.4%.</li> <li>• The City estimates expending a total of approximately \$37,879,814 over the six-year term of the new agreement with Recology. Therefore, the proposed resolution and MOU agreement should be amended to reduce the not-to-exceed \$44,000,000 to a not-to-exceed \$40,000,000, a reduction of \$4,000,000. This will provide an additional \$2,120,186 or a 5.6% contingency above the estimated \$37,879,814 total.</li> <li>• The revenues to pay for the proposed contract with Recology would be funded through the individual City departments' annual FY operating budgets, as approved by the Board of Supervisors.</li> </ul> <p style="text-align: center;"><b>Recommendations</b></p> <ol style="list-style-type: none"> <li>1. Amend the proposed resolution in the title and on page 1, line 13 to reduce the not-to-exceed amount from \$44,000,000 to \$40,000,000, a reduction of \$4,000,000.</li> <li>2. Approve the proposed resolution as amended.</li> </ol>	

## MANDATE STATEMENT

City Charter Section 9.118(b) authorizes any contract or agreement that has a term in excess of ten years, or \$10,000,000 or more in anticipated expenditures, be subject to Board of Supervisors approval.

## BACKGROUND

On March 21, 2007, the Board of Supervisors approved a not-to-exceed \$23,037,527 Memorandum of Understanding (MOU) agreement between the City and County of San Francisco and Sunset Scavenger Company, Golden Gate Disposal & Recycling Company and SF Recycling & Disposal Company, Inc., now known as Recology, to provide refuse collection and recycling services for all City and County departments and facilities (Resolution No. 147-07). The initial four-year and three-month MOU extended from April 1, 2007 through June 30, 2011, and included two one-year options to extend, or through June 30, 2013, at the sole discretion of the City Purchaser.

This MOU was amended four times to increase the original \$23,037,527 agreement by a total of \$10,082,735 to a not-to-exceed \$33,120,262, and to exercise both one-year options to extend the term through June 30, 2013.

Ms. Kofo Domingo, the Assistant Director of Purchasing in the Office of Contract Administration (OCA) advises that on July 1, 2013, OCA entered into a new MOU with Recology for a one-year term from July 1, 2013 through June 30, 2014 for a not-to-exceed \$7,700,000. This new MOU was amended three times to (a) expand City refuse and recycling services to the Treasure Island Development Authority (TIDA)<sup>1</sup>, (b) extend the term by five months, or through November 30, 2014, and (c) increase the contract by \$1,000,000, for a total not-to-exceed \$8,700,000. This new MOU and none of the three amendments were subject to the Board of Supervisors approval as the contract was less than ten years or \$10,000,000.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a new six-year MOU agreement between the City and County of San Francisco and Recology San Francisco, Recology Golden Gate and Recology Sunset Scavenger (Recology) for Recology to provide refuse collection and recycling services for all City and County departments and facilities, under Charter Section 9.118(b), resulting in total compensation to Recology in an amount not-to-exceed \$44,000,000 for the term of December 1, 2014 through November 30, 2020.

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<sup>1</sup> Prior to this amendment, TIDA had a separate agreement with Recology.

The proposed agreement, as had been the case for the previous agreements, would be awarded to Recology, without conducting a competitive procurement process. According to Ms. Domingo, agreements for City refuse collection and recycling services are not competitively bid because (a) since 1932, Recology has been the only permitted hauler for refuse collection in San Francisco, (b) Recology currently provides refuse services for all City residents and businesses, and (c) Recology is the only vendor with the facilities and equipment to provide this service, including a fleet of trucks, transfer station and recycling sorting facility in San Francisco. As a result, Ms. Domingo advises that the OCA negotiated with the existing contractor, Recology, to continue to provide refuse collection and recycling services to the City and County of San Francisco.

As detailed in the Attachment provided by Ms. Domingo, and summarized in Table 1 below, in FY 2013-14, the City paid Recology \$5,752,006. Over the past five fiscal years, the City has paid Recology a total of \$27,503,048 to provide refuse and recycling services for all City departments, or an average of \$5,500,610 per year. As shown in the Attachment, the largest user of Recology's services is the Recreation and Park Department (REC), which accounts for approximately 26% of all City and County expenditures.

**Table 1: Five Years of City Refuse Expenditures**

<b>FY 2009-10</b>	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>	<b>Total</b>
\$5,117,715	\$5,692,515	\$5,666,747	\$5,274,065	\$5,752,006	\$27,503,048

## **FISCAL IMPACT**

In contrast to the subject refuse collection and recycling services for the City and County of San Francisco, private residential refuse collection and recycling service rates are established by the City's separate rate setting process<sup>2</sup>. The last rate setting was established in 2013, which increased rates by 19.89% and then allowed for annual cost of living adjustments (COLAs). Commercial refuse collection and recycling rates, which are set by Recology, have historically increased at the same percentage rate as residential rates. The actual amount paid by an individual customer varies depending on the size and number of refuse and recycling containers, the frequency of pickup and an array of other services provided at each location (i.e. distance, keys required to access, etc.).

Ms. Domingo advises that City departments' refuse rates have historically been set at 20% below commercial rates. However, because residential and commercial rates were increased in 2013, the City is currently paying 31.4% below current commercial rates. As a result of

<sup>2</sup> The City's rate setting process is established under the 1932 Refuse Collection and Disposal Initiative Ordinance. Based on this Ordinance, the City and County of San Francisco approves and sets residential garbage rates approximately every five years, with the assistance from the Department of Public Works and Department of Environment staff.

negotiations with Recology, Ms. Domingo advises that the proposed contract would increase the rates paid by City departments by 11.4% over the first four years of the proposed six-year contract, at an average rate of approximately 2.85% per year, with no such additional increases in the last two years of the contract. Such rate increases would then establish the City's rates at 20% below commercial rates, as has been historically done. In addition, beginning on July 1, 2015 and extending through the term of the contract, City department rates would increase annually by a COLA.

As shown in Table 1 above, the City expended \$5,752,006 in FY 2013-14. As shown in Table 2 below, in FY 2015-16, after the initial rate increases, the City anticipates expending \$6,005,961, an increase of \$253,955 or 4.4%. As summarized in Table 2 below, the City estimates expending a total of approximately \$37,879,814 over the six-year term of the new agreement with Recology.

However, the proposed resolution and MOU agreement authorize the City to expend a not-to-exceed \$44,000,000. The proposed resolution and MOU agreement should therefore be amended to reduce the \$44,000,000 to a not-to-exceed \$40,000,000, a reduction of \$4,000,000. This will provide an additional \$2,120,186 or a 5.6% contingency above the estimated \$37,879,814 total for potentially increased refuse and recycling expenditures by City departments to reflect fluctuations in activities and usage.

**Table 2: Estimated Cost based on Negotiated Rates Over Six Year Contract**

<b>Term</b>	<b>Service Fee Cap Formula</b>	<b>Projected Cost</b>
December 1, 2014-June 30, 2015	Base Rate	\$3,303,972
FY 2015-16	(Base Rate x 1.0285) + COLA	6,005,961
FY 2016-17	(Base Rate x 1.057) + COLA	6,172,388
FY 2017-18	(Base Rate x 1.086) + COLA	6,341,734
FY 2018-19	(Base Rate x 1.1114) + COLA	6,490,059
FY 2019-20	(Base Rate x 1.1114) + COLA	6,691,250
July 1, 2020-November 30, 2020	(Base Rate x 1.1114) + COLA	2,874,450
<b>Total Six Year Term</b>		<b>\$37,879,814</b>

Ms. Domingo notes that the proposed agreement also includes a cap on total expenditures that would be paid by the City, based on actual FY 2013-14 City expenditure rates.

The revenues to pay for the proposed contract with Recology would be funded through the individual City departments' annual FY operating budgets, as approved by the Board of Supervisors. Although the proposed new contract with Recology would be effective as of December 1, 2014, the proposed new rates would not become effective until July 1, 2015.

Therefore the costs would have to be included in the FY 2015-16 budgets and subsequent year budgets for all City departments.

## RECOMMENDATIONS

1. Amend the proposed resolution in the title and on page 1, line 13 to reduce the not-to-exceed amount from \$44,000,000 to \$40,000,000, a reduction of \$4,000,000.
2. Approve the proposed resolution as amended.

## 5-Year Expenditures 2009-2013

Row Labels	2009- 2010	2010-2011	2011-2012	2012- 2013	2013- 2014
ANC	\$34,001	\$35,955	\$49,617	\$43,471	\$45,041
CAOCA	\$0	\$0	\$7,008	\$16,951	\$11,112
CME	\$0	\$200	\$0	\$0	\$0
CWP	\$275,633	\$256,105	\$29,563	\$17,998	\$16,311
CWPA	\$0	\$0	\$285,286	\$273,603	\$290,969
DAT	\$10,589	\$6,330	\$0	\$0	\$0
DPT	\$733,913	\$696,766	\$0	\$0	\$0
DPT1	\$0	\$0	\$663,417	\$591,921	\$46,695
DPWBR	\$89,691	\$0	\$0	\$623	\$640
DPWGA	\$0	\$33,512	\$34,904	\$37,171	\$34,785
DSS	\$211,034	\$268,072	\$245,823	\$249,071	\$242,490
ECD	\$19,700	\$24,374	\$23,692	\$21,732	\$18,421
FIR	\$152,723	\$174,846	\$162,118	\$192,766	\$199,788
HCH	\$67,218	\$72,477	\$71,216	\$58,093	\$98,485
HGH	\$392,866	\$791,881	\$593,527	\$613,854	\$630,909
HHP	\$5,215	\$5,277	\$5,260	\$5,260	\$4,051
HLH	\$307,146	\$501,006	\$479,130	\$481,570	\$593,393
HMH	\$55,722	\$50,888	\$45,526	\$45,015	\$0
JUV	\$36,171	\$38,255	\$27,861	\$27,861	\$29,645
LIB	\$77,807	\$81,716	\$93,686	\$80,330	\$87,296
MTA	\$0	\$0	\$2,299	\$9,886	\$600,575
MYRBE	\$0	\$0	\$0	\$581	\$1,575
PDR	\$783	\$994	\$916	\$0	\$0
POL	\$179,771	\$202,138	\$189,832	\$179,938	\$149,561
PRT	\$354,594	\$240,442	\$272,450	\$366,897	\$459,341
PTC	\$9,397	\$9,313	\$241	\$0	\$0
PUC	\$0	\$0	\$0	\$33,389	\$265
PUR02	\$0	\$0	\$2,673	\$2,479	\$2,646
REC	\$1,453,926	\$1,053,692	\$1,614,682	\$1,340,762	\$1,436,672
REG	\$3,558	\$3,511	\$0	\$0	\$2,064
RES	\$542,689	\$772,127	\$652,392	\$474,657	\$558,537
RNT	\$0	\$0	\$0	\$180	\$0
SHF	\$30,221	\$33,288	\$27,342	\$27,613	\$28,359
TIS02	\$20,523	\$24,860	\$24,234	\$26,519	\$21,227
WAR	\$0	\$250,469	\$0	\$0	\$0
WTR	\$52,823	\$64,020	\$62,055	\$53,875	\$141,156
<b>Grand Total</b>	<b>\$5,117,715</b>	<b>\$5,692,515</b>	<b>\$5,666,747</b>	<b>\$5,274,065</b>	<b>\$5,752,006</b>

Average 5 year spend

\$5,500,610

Most recent spend

\$5,752,006